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Exhibit 1



An IDACORP Company

IDAHO POWER COMPANY
P.O. BOX 70
BOISE, IDAHO 83707

BARTON L. KLINE
Senior Attorney

October 20, 2005

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington Street
P. O. Box 83720
Boise, Idaho 83720-0074

Re: Case No. IPC-E-05-30
Application For Approval of Firm Energy Sales Agreement
Between Idaho Power and Milner Dam Wind Park LLC

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Dear Ms. Jewell:

Please find enclosed for filing an original and seven (7) copies of Idaho Power Company's Application For Approval of A Firm Energy Sales Agreement for the Sale and Purchase of Electric Energy Between Idaho Power Company and Milner Dam Park LLC.

I would appreciate it if you would return a stamped copy of this transmittal letter in the enclosed self-addressed, stamped envelope.

Very truly yours,

Barton L. Kline

BLK:jb
Enclosures

BARTON L. KLINE, ISB # 1526
MONICA B. MOEN, ISB # 5734
Idaho Power Company
1221 West Idaho Street
P. O. Box 70
Boise, Idaho 83707
Telephone: (208) 388-2682
FAX Telephone: (208) 388-6936

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Attorneys for Idaho Power Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)
IDAHO POWER COMPANY FOR APPROVAL)
OF A FIRM ENERGY SALES AGREEMENT)
FOR THE SALE AND PURCHASE OF)
ELECTRIC ENERGY BETWEEN IDAHO)
POWER COMPANY AND MILNER DAM)
WIND PARK LLC)
_____)

CASE NO. IPC-E-05-30
APPLICATION

COMES NOW, Idaho Power Company ("Idaho Power" or "the Company") and, pursuant to RP 52, hereby requests that the Commission issue its Order approving a Firm Energy Sales Agreement between Idaho Power and Milner Dam Wind Park LLC ("Milner Dam") under which Milner Dam would sell and Idaho Power would purchase electric energy generated by the Milner Dam Wind Generating Facility located near approximately 2,000 yards west of the Milner Dam in Cassia County, Idaho ("Facility").

This Application is based on the following:

I.

Milner Dam represents that the Facility will be a 18 MW wind generating facility that will be a qualified small power production facility under the applicable provisions of the Public Utility Regulatory Policies Act of 1978 ("PURPA").

II.

On October 14, 2005, Idaho Power and Milner Dam entered into a Firm Energy Sales Agreement ("Agreement") pursuant to the terms and conditions of Commission Order Nos. 29632, 29646, 29839, 29851 and 29872. Under the terms of the Agreement, Milner Dam elected to contract with Idaho Power for a twenty-year term. Milner Dam further elected to contract with the Company using the non-levelized published avoided cost rates as currently established by the Commission for projects that, under normal operating conditions, will not generate more than 10 aMW on a monthly basis.

III.

The Agreement is similar in virtually all respects to several recent PURPA agreements entered into by Idaho Power and approved by the Commission (i.e., Pilgrim Stage Station Wind Park, IPUC Order No. 29771; Oregon Trails Wind Park, IPUC Order No. 29772). The Agreement contains terms and conditions previously approved by the Commission in reviewing other PURPA agreements and is consistent with Order No. 29632 in Case No. IPC-E-04-8 (U.S. Geothermal Complaint).

IV.

The nameplate rating of the Facility is expected to be 18 MW. As provided by the Agreement, Milner Dam will be required to provide data on the Facility that Idaho Power will use to confirm that, under normal and/or average conditions, generation from the Facility will not exceed 10 aMW on a monthly basis.

V.

In Order No. 29839 issued in Case No. IPC-E-05-22, the Commission ordered that the size cap for QF wind generation facilities entitled to receive the published avoided cost rates be reduced from 10 aMW to 100 kW. In Order No. 29839, the Commission identified several criteria that the Commission would consider to determine whether a particular QF wind generation facility was sufficiently mature so as to justify “grandfathering” the project to entitlement to the published rates. In Order No. 29872 issued on September 21, 2005 in the same case, the Commission addressed several motions for reconsideration of Order No. 29851 and specified that the deadline for “grandfathering” would be changed from the previously-ordered July 1, 2005, until August 4, 2005, the date of interlocutory Order No. 29839. In Order No. 29872, the Commission confirmed the criteria it would consider for determining eligibility to the published rates for those QFs in the negotiation queue on August 4, 2005. These criteria are as follows:

- (1) submittal of a signed power purchase agreement to the utility, or
- (2) submittal to the utility of a completed Application for Interconnection Study and payment of fee.

In addition to a finding of existence of one or both of the preceding threshold criteria, the QF must also be able to demonstrate other indicia of substantial progress and project maturity, e.g.,

- (1) a wind study demonstrating a viable site for the project,
- (2) a signed contract for wind turbines,
- (3) arranged financing for the project, and/or
- (4) related progress on the facility permitting and licensing path.

(Order No. 29839, p. 10, August 4, 2005)

VI.

In order to comply with the Commission's order regarding grandfathering, Idaho Power identified 14 wind generating project developers that had contacted Idaho Power regarding a potential wind QF project. By letter dated August 8, 2005, the Company requested that each of the identified QF developers provide Idaho Power information regarding their project that the Company could use to determine whether or not the particular wind QF would meet the criteria for grandfathering described by the Commission. A copy of the letter sent to Milner Dam is enclosed as Attachment 1. In response to Attachment 1, Milner Dam provided responses to each of the items identified in Attachment 1. A summary of Milner Dam's responses is enclosed as Attachment 2.

As noted in Attachment 2, several of Milner Dam's responses indicated that Milner Dam was concerned about the confidentiality of documents. Therefore, rather than requiring copies of the documents be provided, Idaho Power reviewed the documents in Milner Dam's office to confirm that the documents supported Milner Dam's representations.

VII.

While Idaho Power reviewed Milner Dam's compliance with all of the criteria identified in Attachment 1, the Company does not expect that a QF must have *completed* all of the criteria to be entitled to grandfather status. The relative weight given to completion of each criterion must be considered on its own merits. For example, one criterion that Idaho Power identified as being entitled to great weight is a signed contract for wind turbines. Based on discussions with QF wind developers and other publicly available information, Idaho Power has determined that the supply of wind turbines is extremely tight and, if a turbine has not been procured, it may be many months before turbines are available. Therefore, possession of a contract that binds a wind turbine manufacturer to deliver the needed wind turbines to the QF within the time periods specified by the QF developer was deemed by Idaho Power to be critical to a determination that a QF was sufficiently mature so as to qualify for grandfathering. The Milner Dam project has entered into such a contract and Idaho Power has reviewed the contract documents binding the wind turbine manufacturer.

VIII.

Considering and weighing all of the Commission-identified criteria, Idaho Power believes that Milner Dam is sufficiently far enough along the development path that it should be "grandfathered" to the published rates.

IX.

Milner Dam has selected November 2006 as the scheduled first energy date and May 2007 as the scheduled operation date for the project. As the Agreement specifies, once a project requests and is assigned an operation date, various terms of

the Agreement are activated, primarily the 90%/110% performance criteria. Prior to the operation date, the Agreement requires that only the monthly variable non-firm price for energy be paid for the energy production from this project. Based on past experience, the Milner Dam developer has determined that it typically takes a few months to fine tune the turbines at each specific project; therefore, the developer has allowed for this fine tuning time frame in the scheduled first energy and schedule operation date. In the Agreement, various requirements have been placed on Milner Dam in order for Idaho Power to accept deliveries from this Facility. Idaho Power will monitor compliance with these initial requirements. In addition, Idaho Power will continue to monitor the ongoing requirements through the full term of this Agreement.

X.

Section 22 of the Agreement provides that the Agreement will not become effective until the Commission has approved all of the agreements, terms and conditions and determined that all payments that Idaho Power will make to Milner Dam for purchases of energy under the Agreement will be allowed as prudently incurred expenses for ratemaking purposes.

XI.

The Agreement, as signed and submitted by the parties hereto, contains non-levelized published avoided cost rates in conformity with applicable IPUC Orders and is enclosed as Attachment 3.

XII.

Service of pleadings, exhibits, orders and other documents relating to this proceeding should be served on the following:

Barton L. Kline, Senior Attorney
Monica B. Moen, Attorney II
Idaho Power Company
P.O. Box 70
Boise, Idaho 83707
bkline@idahopower.com
mmoen@idahopower.com

Randy C. Allphin
Contract Administrator
Idaho Power Company
P.O. Box 70
Boise, Idaho 83707
rallphin@idahopower.com

XIII.

NOW, THEREFORE, based on the foregoing, Idaho Power hereby requests that the Commission issue its Order:

- (1) Approving the enclosed Firm Energy Sales Agreement between Idaho Power and Milner Dam without change or condition; and
- (2) Declaring that all payments for purchase of energy under the Agreement will be allowed as prudently incurred expenses for ratemaking purposes.

Respectfully submitted this 20th day of October, 2005.



BARTON L. KLINE
Attorney for Idaho Power Company

ATTACHMENT 1



Randy C. Allphin
Contract Administrator

August 8, 2005

James Carkulis
Exergy Development Group, LLC
P O Box 5212
Helena, MT 59601

E-mail Copy: mtli@in-tch.com

Original: US Mail

RE: Milner Dam Wind Park
Request for a PURPA contract for a proposed Wind Generation Facility.

Dear James:

On June 17, 2005, Idaho Power Company (Company) filed a Petition with the Idaho Public Utilities Commission (Commission) requesting a temporary suspension of the Company's obligation to enter into new contracts to purchase energy generated by qualifying wind-powered small power production facilities (QFs) at the published rates.

On August 4, 2005, the Commission issued Order No. 29839 in response to the Petition filed by Idaho Power Company. In Order No. 29839, the Commission ruled that only intermittent wind generation projects with a nameplate rating of 100 kW or less are eligible for the published avoided cost rates. In this Order the Commission also established criteria to assess the eligibility of larger wind generation projects that had commenced the development process prior to July 1, 2005 to receive PURPA contracts containing the published rates. The eligibility criteria for those larger projects, as set out in Order No. 29839, are as follows:

- 1) Submittal of a signed power purchase agreement to the utility no later than July 1, 2005 or submittal of a completed Application for Interconnection Study and payment of study fees to the utility no later than July 1, 2005.

- 2) In addition to the eligibility criteria set out in item 1, to qualify for the published rates the larger QF must also be able to demonstrate other indicia of substantial progress and project maturity. Examples of these items include but are not limited to:
 - a.) A QF certificate for the project
 - b.) Wind study(s) demonstrating a viable site for the project
 - c.) Project and access road site control
 - d.) A signed contract for the supply of wind turbines
 - e.) Arranged financing for the project
 - f.) Progress on facility permitting and licensing

Our records indicate you contacted Idaho Power concerning a PURPA contract for the Milner Dam Wind Park with an estimated size of 10.5 MW prior to the issuance of Commission Order No. 29839.

Summarized below are Idaho Power Power Supply's records in regards to the data you have submitted for your proposed wind project and the status of meeting the eligibility criteria as described in Commission Order No. 29839.

Item 1

- a.) Submittal of a signed Purchase Power Agreement

Idaho Power has received a developer originated signed Purchase Power Agreement prior to July 1, 2005.

- b.) Submittal of a completed Application for Interconnection

What is the status of your application for interconnection for your proposed wind project?

While this may seem to be a strange request coming from Idaho Power, Federal Energy Regulatory Commission orders prohibit Idaho Power's Power Supply business unit from obtaining this information directly from the Idaho Power Delivery business unit. Please provide complete interconnection application status information, including when application was made for interconnection and evidence that the required

study fees have been paid to Idaho Power Delivery business unit.

- ✓ If your project has submitted one or both of the above-required documents please provide the documentation of the items specified below in Item 2.
- ✓ If neither of the above documents had been submitted to Idaho Power Company prior to July 1, 2005, as specified in the Commission Order, your project is subject to the revised published rate eligibility cap for a qualified intermittent wind projects of 100 kW or smaller.

Item 2

Please provide documentation that demonstrates other indicia of substantial progress and project maturity. Examples of these items include but are not limited to:

- a.) A QF certificate for the project
Idaho Power has on file a copy of your notice of Self Certification dated August 3, 2005.
- b.) Wind study demonstrating a viable site for the project
- c.) Project and access road site control
- d.) A signed contract for the supply of wind turbines
- e.) Arranged financing for the project
- f.) Progress on facility permitting and licensing

If there is other data that you believe indicates that your project was substantially mature or complete as of July 1, 2005, please provide this data at the same time.

Please provide the requested data to Randy Allphin at Idaho Power Company:

US Mail: Idaho Power Company
Attn: Randy Allphin
P O Box 70
Boise, Idaho 83707

Email: Rallphin@idahopower.com

Fax: (208) 433-5163

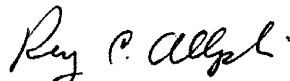
Please mark all Faxes – Attention Randy Allphin and also notify Randy Allphin by e-mail or telephone that a Fax is being sent.

Idaho Power will review the provided data and may request addition information. If it is determined that the project has met the eligibility criteria as established by the Commission, Idaho Power will prepare and provide a draft PURPA agreement for your review. Please note this is not an offer to purchase and no PURPA contract is effective until the Idaho Public Utilities Commission has reviewed it and approved it for ratemaking purposes.

The Commission has set stringent time limits for continued processing of this case. As a result, it is important that we receive your response to this letter no later than **5 PM, Mountain Standard Time, August 15, 2005**. Failure to provide complete information within this time period may mean that your request would not be considered eligible to receive the published rates.

If you have any questions please contact me at your convenience.

Very truly yours,



Randy C. Allphin
Idaho Power Company
Contract Administrator

ATTACHMENT 2

Summary of Compliance Analysis
Milner Dam
 18.00 MW
 Cassia County

<p>1.) <u>Purchase Power agreement</u> Submittal of a signed power purchase</p> <p style="text-align: center;">And / Or</p>	<p>Yes, developer provided agreement signed June 17, 2005</p>
<p><u>Interconnection Application</u> Submittal to the Utility of a completed</p> <p>2.) <u>Demonstrate other indicia of substantial progress and project maturity</u></p>	<p>Yes, 101.5 MW request filed with IPC on Feb 2005. Fees paid and Feasibility Study completed by IPC.</p>
<p>a. QF Certificate</p>	<p>Filed with FERC 8/3/2005</p>
<p>b. Site Control</p>	<p>8/15/2005 Developer response received, stating all contracts are complete and available for our review upon request.</p>
<p>b. Site Control</p>	<p>8/23/2005 Company representatives met with developer and reviewed various documents supporting conclusion that adequate site control was in place.</p>
<p>c. Wind Study data</p>	<p>8/15/2005 Developer response received, stating data collected but confidential.</p>
<p>c. Wind Study data</p>	<p>8/23/2005 Company representatives met with developer and reviewed various documents indicating wind data had been collected for this project. In addition, the Developer has provided monthly kWh commitments for inclusion in the agreement based upon the c</p>
<p>d. Turbine supply confirmation</p>	<p>8/15/2005 Developer response received, stating all contracts are complete but confidential.</p>
<p>d. Turbine supply confirmation</p>	<p>8/23/2005 Company representatives met with developer and reviewed the Turbine supply agreement and confirmed that a binding agreement with manufacturer for the supply of turbines is in place for this project.</p>
<p>e. Completed project financing</p>	<p>8/15/2005 Letter received, stating premature to have final financing in place until a PPA is complete. Prior Company experience confirms that ability to obtain firm financial commitments usually require PPA in place. Developer has previously obtained fin</p>
<p>f. Planning and Zoning permit progress</p>	<p>8/15/2005 Letter received, stating initial work begun, but premature to finalize until PPA in place. Company's representatives met with developer and confirmed initial permitting due diligence commenced.</p>

ATTACHMENT 3

FIRM ENERGY SALES AGREEMENT

BETWEEN

IDAHO POWER COMPANY

AND

MILNER DAM WIND PARK LLC

TABLE OF CONTENTS

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<u>Article</u>	<u>TITLE</u>
1	Definitions
2	No Reliance on Idaho Power
3	Warranties
4	Conditions to Acceptance of Energy
5	Term and Operation Date
6	Purchase and Sale of Net Energy
7	Purchase Price and Method of Payment
8	Environmental Attributes
9	Facility and Interconnection
10	Disconnection Equipment
11	Metering and Telemetry
12	Records
13	Protection
14	Operations
15	Indemnification and Insurance
16	Force Majeure
17	Land Rights
18	Liability; Dedication
19	Several Obligations
20	Waiver
21	Choice of Laws and Venue
22	Disputes and Default
23	Governmental Authorization
24	Commission Order
25	Successors and Assigns
26	Modification
27	Taxes
28	Notices
29	Additional Terms and Conditions
30	Severability
31	Counterparts
32	Entire Agreement Signatures

Appendix A

Appendix B

Appendix C

FIRM ENERGY SALES AGREEMENT
(10 aMW or Less)

MILNER DAM WIND PARK LLC

Project Number: 31720190

THIS AGREEMENT, entered into on this 14 day of Oct 2005 between MILNER DAM WIND PARK, an Idaho limited liability company (Seller), and IDAHO POWER COMPANY, an Idaho corporation (Idaho Power), hereinafter sometimes referred to collectively as "Parties" or individually as "Party."

WITNESSETH:

WHEREAS, Seller will design, construct, own, maintain and operate an electric generation facility; and

WHEREAS, Seller wishes to sell, and Idaho Power is willing to purchase, firm electric energy produced by the Seller's Facility.

THEREFORE, In consideration of the mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

ARTICLE I: DEFINITIONS

As used in this Agreement and the appendices attached hereto, the following terms shall have the following meanings:

- 1.1 "Commission" - The Idaho Public Utilities Commission.
- 1.2 "Contract Year" - The period commencing each calendar year on the same calendar date as the Operation Date and ending 364 days thereafter.
- 1.3 "Designated Dispatch Facility" - Idaho Power's Systems Operations Group, or any subsequent group designated by Idaho Power.
- 1.4 "Disconnection Equipment" - All equipment specified in Schedule 72 and the Generation Interconnection Process and any additional equipment specified in Appendix B.
- 1.5 "Facility" - That electric generation facility described in Appendix B of this Agreement.

- 1.6 "First Energy Date" - The day commencing at 0001 hours, Mountain Time, following the day that Seller has satisfied the requirements of Article IV and the Seller begins delivering energy to Idaho Power's system at the Point of Delivery.
- 1.7 "Generation Interconnection Process" – Idaho Power's generation interconnection application and engineering review process developed to ensure a safe and reliable generation interconnection in compliance with all applicable regulatory requirements, Prudent Electrical Practices and national safety standards.
- 1.8 "Inadvertent Energy" – Electric energy Seller does not intend to generate. Inadvertent energy is more particularly described in paragraph 7.3 of this Agreement.
- 1.9 "Interconnection Facilities" - All equipment specified in Schedule 72 and the Generation Interconnection Process and any additional equipment specified in Appendix B.
- 1.10 "Initial Capacity Determination" – The process by which Idaho Power confirms that under normal or average design conditions the Facility will generate at no more than 10 average MW per month and is therefore eligible to be paid the published rates in accordance with Commission Order No. 29632.
- 1.11 "Losses" – The loss of electrical energy expressed in kilowatt hours (kWh) occurring as a result of the transformation and transmission of energy between the point where the Facility's energy is metered and the point the Facility's energy is delivered to the Idaho Power electrical system. The loss calculation formula will be as specified in Appendix B of this Agreement.
- 1.12 "Market Energy Cost" – Eighty-five percent (85%) of the weighted average of the daily on-peak and off-peak Dow Jones Mid-Columbia Index (Dow Jones Mid-C Index) prices for non-firm energy. If the Dow Jones Mid-Columbia Index price is discontinued by the reporting agency, both Parties will mutually agree upon a replacement index, which is similar to the Dow Jones Mid-Columbia Index. The selected replacement index will be consistent with other similar agreements and a commonly used index by the electrical industry.
- 1.13 "Material Breach" – A Default (paragraph 22.2.1) subject to paragraph 22.2.2.

- 1.14 “Maximum Capacity Amount” – The maximum capacity (MW) of the Facility will be as specified in Appendix B of this Agreement.
- 1.15 “Metering Equipment” - All equipment specified in Schedule 72, the Generation Interconnection Process, this Agreement and any additional equipment specified in Appendix B required to measure, record and telemeter power flows between the Seller's electric generation plant and Idaho Power's system.
- 1.16 “Net Energy” – All of the electric energy produced by the Facility, less Station Use, less Losses, expressed in kilowatt hours (kWh). Seller commits to deliver all Net Energy to Idaho Power at the Point of Delivery for the full term of the Agreement. Net Energy does not include Inadvertent Energy.
- 1.17 “Operation Date” – The day commencing at 0001 hours, Mountain Time, following the day that all requirements of paragraph 5.2 have been completed.
- 1.18 “Point of Delivery” – The location specified in Appendix B, where Idaho Power’s and the Seller’s electrical facilities are interconnected.
- 1.19 “Prudent Electrical Practices” – Those practices, methods and equipment that are commonly and ordinarily used in electrical engineering and operations to operate electric equipment lawfully, safely, dependably, efficiently and economically.
- 1.20 “Scheduled Operation Date” – The date specified in Appendix B when Seller anticipates achieving the Operation Date.
- 1.21 “Schedule 72” – Idaho Power’s Tariff No 101, Schedule 72 or its successor schedules as approved by the Commission.
- 1.22 “Season” – The three periods identified in paragraph 6.2.1 of this Agreement.
- 1.23 “Special Facilities” - Additions or alterations of transmission and/or distribution lines and transformers as described in Appendix B, Schedule 72 or the Generation Interconnection Process required to safely interconnect the Seller's Facility to the Idaho Power system.
- 1.24 “Station Use” – Electric energy that is used to operate equipment that is auxiliary or otherwise related to the production of electricity by the Facility.

- 1.25 “Surplus Energy” – (1) Net Energy produced by the Seller’s Facility and delivered to the Idaho Power electrical system during the month which exceeds 110% of the monthly Net Energy Amount for the corresponding month specified in paragraph 6.2. or (2) If the Net Energy produced by the Seller’s Facility and delivered to the Idaho Power electrical system during the month is less than 90% of the monthly Net Energy Amount for the corresponding month specified in paragraph 6.2, then all Net Energy delivered by the Facility to the Idaho Power electrical system for that given month or (3) All Net Energy produced by the Seller’s Facility and delivered by the Facility to the Idaho Power electrical system prior to the Operation Date.
- 1.26 “Total Cost of the Facility” - The total cost of structures, equipment and appurtenances.

ARTICLE II: NO RELIANCE ON IDAHO POWER

- 2.1 Seller Independent Investigation - Seller warrants and represents to Idaho Power that in entering into this Agreement and the undertaking by Seller of the obligations set forth herein, Seller has investigated and determined that it is capable of performing hereunder and has not relied upon the advice, experience or expertise of Idaho Power in connection with the transactions contemplated by this Agreement.
- 2.2 Seller Independent Experts - All professionals or experts including, but not limited to, engineers, attorneys or accountants, that Seller may have consulted or relied on in undertaking the transactions contemplated by this Agreement have been solely those of Seller.

ARTICLE III: WARRANTIES

- 3.1 No Warranty by Idaho Power - Any review, acceptance or failure to review Seller’s design, specifications, equipment or facilities shall not be an endorsement or a confirmation by Idaho Power and Idaho Power makes no warranties, expressed or implied, regarding any aspect of Seller’s design, specifications, equipment or facilities, including, but not limited to, safety, durability, reliability, strength, capacity, adequacy or economic feasibility.
- 3.2 Qualifying Facility Status - Seller warrants that the Facility is a “Qualifying Facility,” as that term

is used and defined in 18 CFR §292.207. After initial qualification, Seller will take such steps as may be required to maintain the Facility's Qualifying Facility status during the term of this Agreement and Seller's failure to maintain Qualifying Facility status will be a Material Breach of this Agreement. Idaho Power reserves the right to review the Seller's Qualifying Facility status and associated support and compliance documents at anytime during the term of this Agreement.

ARTICLE IV: CONDITIONS TO ACCEPTANCE OF ENERGY

- 4.1 Prior to the First Energy Date and as a condition of Idaho Power's acceptance of deliveries of energy from the Seller, Seller shall:
- 4.1.1 Submit proof to Idaho Power that all licenses, permits or approvals necessary for Seller's operations have been obtained from applicable federal, state or local authorities, including, but not limited to, evidence of compliance with Subpart B, 18 CFR 292.207.
 - 4.1.2 Opinion of Counsel - Submit to Idaho Power an Opinion Letter signed by an attorney admitted to practice and in good standing in the State of Idaho providing an opinion that Seller's licenses, permits and approvals as set forth in paragraph 4.1.1 above are legally and validly issued, are held in the name of the Seller and, based on a reasonable independent review, counsel is of the opinion that Seller is in substantial compliance with said permits as of the date of the Opinion Letter. The Opinion Letter will be in a form acceptable to Idaho Power and will acknowledge that the attorney rendering the opinion understands that Idaho Power is relying on said opinion. Idaho Power's acceptance of the form will not be unreasonably withheld. The Opinion Letter will be governed by and shall be interpreted in accordance with the legal opinion accord of the American Bar Association Section of Business Law (1991).
 - 4.1.3 Initial Capacity Determination - Submit to Idaho Power such data as Idaho Power may reasonably require to perform the Initial Capacity Determination. Such data will include but not be limited to, equipment specifications, prime mover data, resource characteristics, normal and/or average operating design conditions and Station Use data.

Upon receipt of this information, Idaho Power will review the provided data and if necessary, request additional data to complete the Initial Capacity Determination within a reasonable time.

- 4.1.4 Engineer's Certifications - Submit an executed Engineer's Certification of Design & Construction Adequacy and an Engineer's Certification of Operations and Maintenance (O&M) Policy as described in Commission Order No. 21690. These certificates will be in the form specified in Appendix C but may be modified to the extent necessary to recognize the different engineering disciplines providing the certificates.
- 4.1.5 Insurance - Submit written proof to Idaho Power of all insurance required in Article XV.
- 4.1.6 Interconnection - Provide written proof to Idaho Power that all Schedule 72 and Generation Interconnection Process requirements have been completed.
- 4.1.7 Written Acceptance - Request and obtain written confirmation from Idaho Power that all conditions to acceptance of energy have been fulfilled. Such written confirmation shall be provided within a commercially reasonable time following the Seller's request and will not be unreasonably withheld by Idaho Power.

ARTICLE V: TERM AND OPERATION DATE

- 5.1 Term - Subject to the provisions of paragraph 5.2 below, this Agreement shall become effective on the date first written and shall continue in full force and effect for a period of twenty (20) Contract Years from the Operation Date.
- 5.2 Operation Date - The Operation Date may occur only after the Facility has achieved all of the following:
 - a) Achieved the First Energy Date.
 - b) Commission approval of this Agreement in a form acceptable to Idaho Power has been received.
 - c) Seller has demonstrated to Idaho Power's satisfaction that the Facility is complete and able to provide energy in a consistent, reliable and safe manner and has requested an

Operation Date in written form.

- d) Seller has requested an Operation Date from Idaho Power in a written format.
- e) Seller has received written confirmation from Idaho Power of the Operation Date.

This confirmation will not be unreasonably withheld by Idaho Power.

5.3 Seller's failure to achieve the Operation Date within ten (10) months of the Scheduled Operation Date will be an event of default.

ARTICLE VI: PURCHASE AND SALE OF NET ENERGY

6.1 Delivery and Acceptance of Net Energy - Except when either Party's performance is excused as provided herein, Idaho Power will purchase and Seller will sell all of the Net Energy to Idaho Power at the Point of Delivery. All Inadvertent Energy produced by the Facility will also be delivered by the Seller to Idaho Power at the Point of Delivery. At no time will the total amount of Net Energy and/or Inadvertent Energy produced by the Facility and delivered by the Seller to the Point of Delivery exceed the Maximum Capacity Amount.

6.2 Net Energy Amounts - Seller intends to produce and deliver Net Energy in the following monthly amounts:

6.2.1 Initial Year Monthly Net Energy Amounts:

	<u>Month</u>	<u>kWh</u>
Season 1	March	5,787,962
	April	4,427,728
	May	4,963,825
Season 2	July	3,214,413
	August	3,031,353
	November	3,732,861
	December	4,870,362
Season 3	June	4,542,022
	September	3,874,824
	October	4,945,819
	January	3,863,663
	February	4,585,851

6.2.2 Ongoing Monthly Net Energy Amounts - Seller shall initially provide Idaho Power with one year of monthly generation estimates (Initial Year Monthly Net Energy Amounts) and beginning at the end of month nine and every three months thereafter provide Idaho Power with an additional three months of forward generation estimates. This information will be provided to Idaho Power by written notice in accordance with paragraph 28.1, no later than 5:00 PM of the 5th day following the end of the previous month. If the Seller does not provide the Ongoing Monthly Net Energy amounts in a timely manner, Idaho Power will use the most recent 3 months of the Initial Year Monthly Net Energy Amounts specified in paragraph 6.2.1 for the next 3 months of monthly Net Energy amounts.

6.2.3 Seller's Adjustment of Net Energy Amount –

6.2.3.1 No later than the Operation Date, by written notice given to Idaho Power in accordance with paragraph 28.1, the Seller may revise all of the previously provided Initial Year Monthly Net Energy Amounts.

6.2.3.2 Beginning with the end of the 3rd month after the Operation Date and at the end of every third month thereafter: (1) the Seller may not revise the immediate next three months of previously provided Net Energy Amounts, (2) but by written notice given to Idaho Power in accordance with paragraph 28.1, no later than 5:00 PM of the 5th day following the end of the previous month, the Seller may revise all other previously provided Net Energy Amounts. Failure to provide timely written notice of changed amounts will be deemed to be an election of no change.

6.2.4 Idaho Power Adjustment of Net Energy Amount – If Idaho Power is excused from accepting the Seller's Net Energy as specified in paragraph 14.2.1 or if the Seller declares a Suspension of Energy Deliveries as specified in paragraph 14.3.1 and the Seller's declared Suspension of Energy Deliveries is accepted by Idaho Power, the Net Energy

Amount as specified in paragraph 6.2 for the specific month in which the reduction or suspension under paragraph 14.2.1 or 14.3.1 occurs will be reduced in accordance with the following:

Where:

NEA = Current Month's Net Energy Amount (Paragraph 6.2)

SGU = a.) If Idaho Power is excused from accepting the Seller's Net Energy as specified in paragraph 14.2.1 this value will be equal to the percentage of curtailment as specified by Idaho Power multiplied by the TGU as defined below.

b.) If the Seller declares a Suspension of Energy Deliveries as specified in paragraph 14.3.1 this value will be the sum of the individual generation units size ratings as specified in Appendix B that are impacted by the circumstances causing the Seller to declare a Suspension of Energy Deliveries.

TGU = Sum of all of the individual generator ratings of the generation units at this Facility as specified in Appendix B of this agreement.

RSH = Actual hours the Facility's Net Energy deliveries were either reduced or suspended under paragraph 14.2.1 or 14.3.1

TH = Actual total hours in the current month

Resulting formula being:

$$\text{Adjusted Net Energy Amount} = \text{NEA} - \left(\left(\frac{\text{SGU}}{\text{TGU}} \times \text{NEA} \right) \times \left(\frac{\text{RSH}}{\text{TH}} \right) \right)$$

This Adjusted Net Energy Amount will be used in applicable Surplus Energy calculations for only the specific month in which Idaho Power was excused from accepting the Seller's Net Energy or the Seller declared a Suspension of Energy.

6.3 Unless excused by an event of Force Majeure, Seller's failure to deliver Net Energy in any Contract Year in an amount equal to at least ten percent (10%) of the sum of the Initial Year Net Energy Amounts as specified in paragraph 6.2 shall constitute an event of default.

ARTICLE VII: PURCHASE PRICE AND METHOD OF PAYMENT

7.1 Net Energy Purchase Price – For all Net Energy, Idaho Power will pay the non-levelized energy price in accordance with Commission Order 29646 with seasonalization factors applied:

<u>Year</u>	Season 1 - (73.50 %)	Season 2 - (120.00 %)	Season 3 - (100.00 %)
	<u>Mills/kWh</u>	<u>Mills/kWh</u>	<u>Mills/kWh</u>
2005	37.00	60.41	50.34
2006	37.85	61.80	51.50
2007	38.73	63.23	52.69
2008	39.62	64.68	53.90
2009	40.53	66.17	55.14
2010	41.46	67.69	56.41
2011	42.42	69.25	57.71
2012	43.39	70.85	59.04
2013	44.39	72.48	60.40
2014	45.42	74.16	61.80
2015	46.47	75.86	63.22
2016	47.54	77.62	64.68
2017	48.63	79.40	66.17
2018	49.76	81.24	67.70
2019	50.91	83.11	69.26
2020	52.07	85.02	70.85
2021	53.28	86.99	72.49
2022	54.51	88.99	74.16
2023	55.76	91.04	75.87
2024	57.05	93.14	77.62
2025	58.37	95.29	79.41
2026	59.72	97.50	81.25

7.2 Surplus Energy Price - For all Surplus Energy, Idaho Power shall pay to the Seller the current month's Market Energy Cost or the Net Energy Purchase Price specified in paragraph 7.1, whichever is lower.

7.3 Inadvertent Energy –

7.3.1 Inadvertent Energy is electric energy produced by the Facility, expressed in kWh, which the Seller delivers to Idaho Power at the Point of Delivery that exceeds 10,000 kW multiplied by the hours in the specific month in which the energy was delivered. (For example January contains 744 hours. 744 hours times 10,000 kW = 7,440,000 kWh. Energy delivered in January in excess of 7,440, 000 kWh in this example would be

Inadvertent Energy.)

7.3.2 Although Seller intends to design and operate the Facility to generate no more than 10 average MW and therefore does not intend to generate Inadvertent Energy, Idaho Power will accept Inadvertent Energy that does not exceed the Maximum Capacity Amount but will not purchase or pay for Inadvertent Energy

7.4 Payment Due Date – Energy payments to the Seller will be disbursed within 30 days of the date which Idaho Power receives and accepts the documentation of the monthly Net Energy and Inadvertent Energy actually produced by the Seller’s Facility and delivered to Idaho Power as specified in Appendix A.

7.5 Continuing Jurisdiction of the Commission – This Agreement is a special contract and, as such, the rates, terms and conditions contained in this Agreement will be construed in accordance with Idaho Power Company v. Idaho Public Utilities Commission and Afton Energy, Inc., 107 Idaho 781, 693 P.2d 427 (1984); Idaho Power Company v. Idaho Public Utilities Commission, 107 Idaho 1122, 695 P.2d 1 261 (1985); Afton Energy, Inc. v. Idaho Power Company, 111 Idaho 925, 729 P.2d 400 (1986); Section 210 of the Public Utilities Regulatory Policies Act of 1978 and 18 CFR §292.303-308.

ARTICLE VIII: ENVIRONMENTAL ATTRIBUTES

8.1 Idaho Power waives any claim to ownership of Environmental Attributes. Environmental Attributes include, but are not limited to, Green Tags, Green Certificates, Renewable Energy Credits (RECs) and Tradable Renewable Certificates (TRCs) directly associated with the production of energy from the Seller’s Facility.

ARTICLE IX: FACILITY AND INTERCONNECTION

9.1 Design of Facility - Seller will design, construct, install, own, operate and maintain the Facility and any Seller-owned Interconnection Facilities so as to allow safe and reliable generation and delivery of Net Energy and Inadvertent Energy to the Idaho Power Point of Delivery for the full

term of the Agreement.

- 9.2 Interconnection Facilities - Except as specifically provided for in this Agreement, the required Interconnection Facilities will be in accordance with Schedule 72, the Generation Interconnection Process and Appendix B. The Seller is responsible for all costs associated with this equipment as specified in Schedule 72 and the Generation Interconnection Process, including but not limited to initial costs incurred by Idaho Power for equipment costs, installation costs and ongoing monthly Idaho Power operations and maintenance expenses.

ARTICLE X: DISCONNECTION EQUIPMENT

- 10.1 Except as specifically provided for in this Agreement, the required Disconnection Equipment will be in accordance with Schedule 72, the Generation Interconnection Process and Appendix B. The Seller is responsible for all costs associated with this equipment as specified in Schedule 72 and the Generation Interconnection Process, including but not limited to initial costs incurred by Idaho Power for equipment costs, installation costs and Idaho Power ongoing monthly operations and monthly maintenance expenses.

ARTICLE XI: METERING AND TELEMETRY

- 11.1 Metering and Telemetry - Idaho Power shall, for the account of Seller, provide, install, and maintain Metering Equipment to be located at a mutually agreed upon location to record and measure power flows to Idaho Power in accordance with Schedule 72, Generation Interconnection Process and Appendix B of this Agreement. The Metering Equipment will be at the location and the type required to measure, record and report the Facility's Net Energy, Station Use, Inadvertent Energy and maximum energy deliveries (kW) in a manner to provide Idaho Power adequate energy measurement data to administer this Agreement and to integrate this Facility's energy production into the Idaho Power electrical system. All Metering Equipment and installation costs shall be borne by Seller, including costs incurred by Idaho Power for inspecting and testing such equipment at reasonable intervals at Idaho Power's actual cost of providing this

Metering Equipment and services. The Metering Equipment shall be at the location described in Appendix B of this Agreement. All meters used to determine the billing hereunder shall be sealed and the seals shall be broken only by Idaho Power when the meters are to be inspected, tested or adjusted.

11.2 Meter Inspection - Idaho Power shall inspect installations annually and test meters on the applicable periodic test schedule relevant to the equipment installed as specified in Appendix B of this Agreement. If requested by Seller, Idaho Power shall make a special inspection or test of a meter and Seller shall pay the reasonable costs of such special inspection. Both Parties shall be notified of the time when any inspection or test shall take place, and each Party may have representatives present at the test or inspection. If a meter is found to be inaccurate or defective, it shall be adjusted, repaired or replaced, at Idaho Power's expense in order to provide accurate metering. If a meter fails to register, or if the measurement made by a meter during a test varies by more than two percent (2 %) from the measurement made by the standard meter used in the test, adjustment (either upward or downward) to the payments Seller has received shall be made to correct those payments affected by the inaccurate meter for the actual period during which inaccurate measurements were made. If the actual period cannot be determined, corrections to the payments will be based on the shorter of (1) a period equal to one-half the time from the date of the last previous test of the meter to the date of the test which established the inaccuracy of the meter; or (2) six (6) months.

11.3 Telemetry – Idaho Power will install, operate and maintain at Seller's expense metering, communications and telemetry equipment which will be capable of providing Idaho Power with continuous instantaneous telemetry of Seller's Net Energy and Inadvertent Energy produced and delivered to the Idaho Power Point of Delivery to Idaho Power's Designated Dispatch Facility.

ARTICLE XII - RECORDS

12.1 Maintenance of Records - Seller shall maintain at the Facility or such other location mutually acceptable to the Parties adequate total generation, Net Energy, Station Use, Inadvertent Energy

and maximum generation (kW) records in a form and content recommended by Idaho Power.

- 12.2 Inspection - Either Party, after reasonable notice to the other Party, shall have the right, during normal business hours, to inspect and audit any or all generation, Net Energy, Station Use, Inadvertent Energy and maximum generation (kW) records pertaining to the Seller's Facility.

ARTICLE XIII - PROTECTION

- 13.1 Seller shall construct, operate and maintain the Facility and Seller-furnished Interconnection Facilities in accordance with Schedule 72, the Generation Interconnection Process, Appendix B of this Agreement, Prudent Electrical Practices, the National Electrical Code, the National Electrical Safety Code and any other applicable local, state and federal codes. Seller acknowledges receipt of the Generation Interconnection Process. If, in the reasonable opinion of Idaho Power, Seller's operation of the Facility or Interconnection Facilities is unsafe or may otherwise adversely affect Idaho Power's equipment, personnel or service to its customers, Idaho Power may physically interrupt the flow of energy from the Facility as specified within Schedule 72, the Generation Interconnection Process or take such other reasonable steps as Idaho Power deems appropriate. Except in the case of an emergency, Idaho Power will attempt to notify Seller of such interruption prior to its occurrence as provided in paragraph 14.9. Seller shall provide and maintain adequate protective equipment sufficient to prevent damage to the Facility and Seller-furnished Interconnection Facilities. In some cases, some of Seller's protective relays will provide back-up protection for Idaho Power's facilities. In that event, Idaho Power will test such relays annually and Seller will pay the actual cost of such annual testing.

ARTICLE XIV - OPERATIONS

- 14.1 Communications - Idaho Power and the Seller shall maintain appropriate operating communications through Idaho Power's Designated Dispatch Facility in accordance with Appendix A of this Agreement.

14.2 Energy Acceptance –

14.2.1 Idaho Power shall be excused from accepting and paying for Net Energy or accepting Inadvertent Energy produced by the Facility and delivered by the Seller to the Point of Delivery, if it is prevented from doing so by an event of Force Majeure, or if Idaho Power determines that curtailment, interruption or reduction of Net Energy or Inadvertent Energy deliveries is necessary because of line construction or maintenance requirements, emergencies, electrical system operating conditions on its system or as otherwise required by Prudent Electrical Practices. If, for reasons other than an event of Force Majeure, Idaho Power requires such a curtailment, interruption or reduction of Net Energy deliveries for a period that exceeds twenty (20) days, beginning with the twenty-first day of such interruption, curtailment or reduction, Seller will be deemed to be delivering Net Energy at a rate equivalent to the pro rata daily average of the amounts specified for the applicable month in paragraph 6.2. Idaho Power will notify Seller when the interruption, curtailment or reduction is terminated.

14.2.2 If, in the reasonable opinion of Idaho Power, Seller's operation of the Facility or Interconnection Facilities is unsafe or may otherwise adversely affect Idaho Power's equipment, personnel or service to its customers, Idaho Power may physically interrupt the flow of energy from the Facility as specified within Schedule 72 or take such other reasonable steps as Idaho Power deems appropriate.

14.2.3 Under no circumstances will the Seller deliver Net Energy and/or Inadvertent Energy from the Facility to the Point of Delivery in an amount that exceeds the Maximum Capacity Amount. Seller's failure to limit deliveries to the Maximum Capacity Amount will be a Material Breach of this Agreement.

14.3 Seller Declared Suspension of Energy Deliveries

14.3.1 If the Seller's Facility experiences a forced outage due to equipment failure which is not caused by an event of Force Majeure or by neglect, disrepair or lack of adequate preventative maintenance of the Seller's Facility, Seller may, after giving notice as

provided in paragraph 14.3.2 below, temporarily suspend all deliveries of Net Energy to Idaho Power from the Facility or from individual generation unit(s) within the Facility impacted by the forced outage for a period of not less than 48 hours to correct the forced outage condition (“Declared Suspension of Energy Deliveries”). The Seller’s Declared Suspension of Energy Deliveries will begin at the start of the next full hour following the Seller’s telephone notification as specified in paragraph 14.3.2 and will continue for the time as specified (not less than 48 hours) in the written notification provided by the Seller. In the month(s) in which the Declared Suspension of Energy occurred, the Net Energy Amount will be adjusted as specified in paragraph 6.2.4.

14.3.2 If the Seller desires to initiate a Declared Suspension of Energy Deliveries as provided in paragraph 14.3.1, the Seller will notify the Designated Dispatch Facility by telephone. The beginning hour of the Declared Suspension of Energy Deliveries will be at the earliest the next full hour after making telephone contact with Idaho Power. The Seller will, within 24 hours after the telephone contact, provide Idaho Power a written notice in accordance with Article XXVIII that will contain the beginning hour and duration of the Declared Suspension of Energy Deliveries and a description of the conditions that caused the Seller to initiate a Declared Suspension of Energy Deliveries. Idaho Power will review the documentation provided by the Seller to determine Idaho Power’s acceptance of the described forced outage as qualifying for a Declared Suspension of Energy Deliveries as specified in paragraph 14.3.1. Idaho Power’s acceptance of the Seller’s forced outage as an acceptable forced outage will be based upon the clear documentation provided by the Seller that the forced outage is not due to an event of Force Majeure or by neglect, disrepair or lack of adequate preventative maintenance of the Seller’s Facility.

14.5 Voltage Levels - Seller, in accordance with Prudent Electrical Practices shall minimize voltage fluctuations and maintain voltage levels acceptable to Idaho Power. Idaho Power may, in accordance with Prudent Electrical Practices, upon one hundred eighty (180) days' notice to the Seller, change its nominal operating voltage level by more than ten percent (10%) at the Point of

Delivery, in which case Seller shall modify, at Idaho Power's expense, Seller's equipment as necessary to accommodate the modified nominal operating voltage level.

- 14.6 Generator Ramping - Idaho Power, in accordance with Prudent Electrical Practices, shall have the right to limit the rate that generation is changed at startup, during normal operation or following reconnection to Idaho Power's electrical system. Generation ramping may be required to permit Idaho Power's voltage regulation equipment time to respond to changes in power flow.
- 14.7 Scheduled Maintenance – On or before January 31 of each calendar year, Seller shall submit a written proposed maintenance schedule of significant Facility maintenance for that calendar year and Idaho Power and Seller shall mutually agree as to the acceptability of the proposed schedule. The Parties determination as to the acceptability of the Seller's timetable for scheduled maintenance will take into consideration Prudent Electrical Practices, Idaho Power system requirements and the Seller's preferred schedule. Neither Party shall unreasonably withhold acceptance of the proposed maintenance schedule.
- 14.8 Maintenance Coordination - The Seller and Idaho Power shall, to the extent practical, coordinate their respective line and Facility maintenance schedules such that they occur simultaneously.
- 14.9 Contact Prior to Curtailment - Idaho Power will make a reasonable attempt to contact the Seller prior to exercising its rights to curtail, interrupt or reduce deliveries from the Seller's Facility. Seller understands that in the case of emergency circumstances, real time operations of the electrical system, and/or unplanned events Idaho Power may not be able to provide notice to the Seller prior to interruption, curtailment, or reduction of electrical energy deliveries to Idaho Power.

ARTICLE XV: INDEMNIFICATION AND INSURANCE

- 15.1 Indemnification - Each Party shall agree to hold harmless and to indemnify the other Party, its officers, agents, affiliates, subsidiaries, parent company and employees against all loss, damage, expense and liability to third persons for injury to or death of person or injury to property, proximately caused by the indemnifying Party's construction, ownership, operation or

maintenance of, or by failure of, any of such Party's works or facilities used in connection with this Agreement. The indemnifying Party shall, on the other Party's request, defend any suit asserting a claim covered by this indemnity. The indemnifying Party shall pay all costs, including reasonable attorney fees that may be incurred by the other Party in enforcing this indemnity.

15.2 Insurance - During the term of this Agreement, Seller shall secure and continuously carry the following insurance coverage:

15.2.1 Comprehensive General Liability Insurance for both bodily injury and property damage with limits equal to \$1,000,000, each occurrence, combined single limit. The deductible for such insurance shall be consistent with current Insurance Industry Utility practices for similar property.

15.2.2 The above insurance coverage shall be placed with an insurance company with an A.M. Best Company rating of A- or better and shall include:

- (a) An endorsement naming Idaho Power as an additional insured and loss payee as applicable; and
- (b) A provision stating that such policy shall not be canceled or the limits of liability reduced without sixty (60) days' prior written notice to Idaho Power.

15.3 Seller to Provide Certificate of Insurance - As required in paragraph 4.1.5 herein and annually thereafter, Seller shall furnish Idaho Power a certificate of insurance, together with the endorsements required therein, evidencing the coverage as set forth above.

15.4 Seller to Notify Idaho Power of Loss of Coverage - If the insurance coverage required by paragraph 15.2 shall lapse for any reason, Seller will immediately notify Idaho Power in writing. The notice will advise Idaho Power of the specific reason for the lapse and the steps Seller is taking to reinstate the coverage. Failure to provide this notice and to expeditiously reinstate or replace the coverage will constitute a Material Breach of this Agreement.

ARTICLE XVI. FORCE MAJEURE

16.1 As used in this Agreement, "Force Majeure" or "an event of Force Majeure" means any cause

beyond the control of the Seller or of Idaho Power which, despite the exercise of due diligence, such Party is unable to prevent or overcome. Force Majeure includes, but is not limited to, acts of God, fire, flood, storms, wars, hostilities, civil strife, strikes and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, or changes in law or regulation occurring after the Operation Date, which, by the exercise of reasonable foresight such party could not reasonably have been expected to avoid and by the exercise of due diligence, it shall be unable to overcome. If either Party is rendered wholly or in part unable to perform its obligations under this Agreement because of an event of Force Majeure, both Parties shall be excused from whatever performance is affected by the event of Force Majeure, provided that:

- (1) The non-performing Party shall, as soon as is reasonably possible after the occurrence of the Force Majeure, give the other Party written notice describing the particulars of the occurrence.
- (2) The suspension of performance shall be of no greater scope and of no longer duration than is required by the event of Force Majeure.
- (3) No obligations of either Party which arose before the occurrence causing the suspension of performance and which could and should have been fully performed before such occurrence shall be excused as a result of such occurrence.

ARTICLE XVII: LAND RIGHTS

17.1 Seller to Provide Access - Seller hereby grants to Idaho Power for the term of this Agreement all necessary rights-of-way and easements to install, operate, maintain, replace, and remove Idaho Power's Metering Equipment, Interconnection Equipment, Disconnection Equipment, Protection Equipment and other Special Facilities necessary or useful to this Agreement, including adequate and continuing access rights on property of Seller. Seller warrants that it has procured sufficient easements and rights-of-way from third parties so as to provide Idaho Power with the access described above. All documents granting such easements or rights-of-way shall be subject to

Idaho Power's approval and in recordable form.

- 17.2 Use of Public Rights-of-Way - The Parties agree that it is necessary to avoid the adverse environmental and operating impacts that would occur as a result of duplicate electric lines being constructed in close proximity. Therefore, subject to Idaho Power's compliance with paragraph 17.4, Seller agrees that should Seller seek and receive from any local, state or federal governmental body the right to erect, construct and maintain Seller-furnished Interconnection Facilities upon, along and over any and all public roads, streets and highways, then the use by Seller of such public right-of-way shall be subordinate to any future use by Idaho Power of such public right-of-way for construction and/or maintenance of electric distribution and transmission facilities and Idaho Power may claim use of such public right-of-way for such purposes at any time. Except as required by paragraph 17.4, Idaho Power shall not be required to compensate Seller for exercising its rights under this paragraph 17.2.
- 17.3 Joint Use of Facilities - Subject to Idaho Power's compliance with paragraph 17.4, Idaho Power may use and attach its distribution and/or transmission facilities to Seller's Interconnection Facilities, may reconstruct Seller's Interconnection Facilities to accommodate Idaho Power's usage or Idaho Power may construct its own distribution or transmission facilities along, over and above any public right-of-way acquired from Seller pursuant to paragraph 17.2, attaching Seller's Interconnection Facilities to such newly constructed facilities. Except as required by paragraph 17.4, Idaho Power shall not be required to compensate Seller for exercising its rights under this paragraph 17.3.
- 17.4 Conditions of Use - It is the intention of the Parties that the Seller be left in substantially the same condition, both financially and electrically, as Seller existed prior to Idaho Power's exercising its rights under this Article XVII. Therefore, the Parties agree that the exercise by Idaho Power of any of the rights enumerated in paragraphs 17.2 and 17.3 shall: (1) comply with all applicable laws, codes and Prudent Electrical Practices, (2) equitably share the costs of installing, owning and operating jointly used facilities and rights-of-way. If the Parties are unable to agree on the method of apportioning these costs, the dispute will be submitted to the Commission for

resolution and the decision of the Commission will be binding on the Parties, and (3) shall provide Seller with an interconnection to Idaho Power's system of equal capacity and durability as existed prior to Idaho Power exercising its rights under this Article XVII.

ARTICLE XVIII: LIABILITY; DEDICATION

- 18.1 Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public or affect the status of Idaho Power as an independent public utility corporation or Seller as an independent individual or entity.

ARTICLE XIX: SEVERAL OBLIGATIONS

- 19.1 Except where specifically stated in this Agreement to be otherwise, the duties, obligations and liabilities of the Parties are intended to be several and not joint or collective. Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or impose a trust or partnership duty, obligation or liability on or with regard to either Party. Each Party shall be individually and severally liable for its own obligations under this Agreement.

ARTICLE XX: WAIVER

- 20.1 Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or other matter.

ARTICLE XXI: CHOICE OF LAWS AND VENUE

- 21.1 This Agreement shall be construed and interpreted in accordance with the laws of the State of Idaho without reference to its choice of law provisions.
- 21.2 Venue for any litigation arising out of or related to this Agreement will lie in the District Court of

the Fourth Judicial District of Idaho in and for the County of Ada.

ARTICLE XXII: DISPUTES AND DEFAULT

- 22.1 Disputes - All disputes related to or arising under this Agreement, including, but not limited to, the interpretation of the terms and conditions of this Agreement, will be submitted to the Commission for resolution.
- 22.2 Notice of Default -
- 22.2.1 Defaults. If either Party fails to perform any of the terms or conditions of this Agreement (an “event of default”), the nondefaulting Party shall cause notice in writing to be given to the defaulting Party, specifying the manner in which such default occurred. If the defaulting Party shall fail to cure such default within the sixty (60) days after service of such notice, or if the defaulting Party reasonably demonstrates to the other Party that the default can be cured within a commercially reasonable time but not within such sixty (60) day period and then fails to diligently pursue such cure, then, the nondefaulting Party may, at its option, terminate this Agreement and/or pursue its legal or equitable remedies.
- 22.2.2 Material Breaches – The notice and cure provisions in paragraph 22.2.1 do not apply to defaults identified in this Agreement as Material Breaches. Material Breaches must be cured as expeditiously as possible following occurrence of the breach.
- 22.3 Security for Performance - Prior to the Operation Date and thereafter for the full term of this Agreement, Seller will provide Idaho Power with the following:
- 22.3.1 Insurance - Evidence of compliance with the provisions of paragraph 15.2. If Seller fails to comply, such failure will be a Material Breach and may only be cured by Seller supplying evidence that the required insurance coverage has been replaced or reinstated;
- 22.3.2 Engineer’s Certifications - Every three (3) years after the Operation Date, Seller will supply Idaho Power with a Certification of Ongoing Operations and Maintenance (O

& M) from a Registered Professional Engineer licensed in the State of Idaho, which Certification of Ongoing O & M shall be in the form specified in Appendix C. Seller's failure to supply the required certificate will be an event of default. Such a default may only be cured by Seller providing the required certificate; and

22.3.3 Licenses and Permits - During the full term of this Agreement, Seller shall maintain compliance with all permits and licenses described in paragraph 4.1.1 of this Agreement. In addition, Seller will supply Idaho Power with copies of any new or additional permits or licenses. At least every fifth Contract Year, Seller will update the documentation described in Paragraph 4.1.1. If at any time Seller fails to maintain compliance with the permits and licenses described in paragraph 4.1.1 or to provide the documentation required by this paragraph, such failure will be an event of default and may only be cured by Seller submitting to Idaho Power evidence of compliance from the permitting agency.

ARTICLE XXIII: GOVERNMENTAL AUTHORIZATION

23.1 This Agreement is subject to the jurisdiction of those governmental agencies having control over either Party of this Agreement.

ARTICLE XXIV: COMMISSION ORDER

24.1 This Agreement shall become finally effective upon the Commission's approval of all terms and provisions hereof without change or condition and declaration that all payments to be made to Seller hereunder shall be allowed as prudently incurred expenses for ratemaking purposes.

ARTICLE XXV: SUCCESSORS AND ASSIGNS

25.1 This Agreement and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties hereto, except that no assignment hereof by either Party shall become effective without the written consent of both Parties being

first obtained. Such consent shall not be unreasonably withheld. Notwithstanding the foregoing, any party which Idaho Power may consolidate, or into which it may merge, or to which it may convey or transfer substantially all of its electric utility assets, shall automatically, without further act, and without need of consent or approval by the Seller, succeed to all of Idaho Power's rights, obligations and interests under this Agreement. This article shall not prevent a financing entity with recorded or secured rights from exercising all rights and remedies available to it under law or contract. Idaho Power shall have the right to be notified by the financing entity that it is exercising such rights or remedies.

ARTICLE XXVI: MODIFICATION

- 26.1 No modification to this Agreement shall be valid unless it is in writing and signed by both Parties and subsequently approved by the Commission.

ARTICLE XXVII: TAXES

- 27.1 Each Party shall pay before delinquency all taxes and other governmental charges which, if failed to be paid when due, could result in a lien upon the Facility or the Interconnection Facilities.

ARTICLE XXVIII: NOTICES

- 28.1 All written notices under this agreement shall be directed as follows and shall be considered delivered when deposited in the U. S. Mail, first-class postage prepaid, as follows:

To Seller: Milner Dam Wind Park, LLC
 Attn: James T. Carkulis
 515 N 27th Street
 P.O. Box 7218
 Boise, Idaho 83702

To Idaho Power:

Original document to:

Vice President, Power Supply
Idaho Power Company
P O Box 70
Boise, Idaho 83707

Copy of document to:

Cogeneration and Small Power Production
Idaho Power Company
P O Box 70
Boise, Idaho 83707

ARTICLE XXIX: ADDITIONAL TERMS AND CONDITIONS

29.1 This Agreement includes the following appendices, which are attached hereto and included by reference:

Appendix A	-	Generation Scheduling and Reporting
Appendix B	-	Facility and Point of Delivery
Appendix C	-	Engineer's Certifications

ARTICLE XXX: SEVERABILITY

30.1 The invalidity or unenforceability of any term or provision of this Agreement shall not affect the validity or enforceability of any other terms or provisions and this Agreement shall be construed in all other respects as if the invalid or unenforceable term or provision were omitted.

ARTICLE XXXI: COUNTERPARTS

31.1 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

ARTICLE XXXII: ENTIRE AGREEMENT

32.1 This Agreement constitutes the entire Agreement of the Parties concerning the subject matter

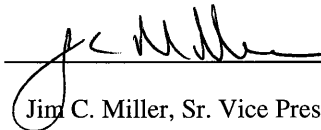
hereof and supersedes all prior or contemporaneous oral or written agreements between the Parties concerning the subject matter hereof.

IN WITNESS WHEREOF, The Parties hereto have caused this Agreement to be executed in their respective names on the dates set forth below:

Idaho Power Company

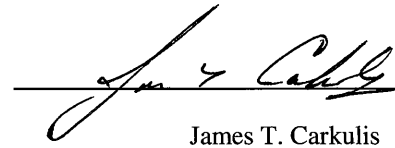
Milner Dam Wind Park L.L.C.

By



Jim C. Miller, Sr. Vice President, Power Supply

By



James T. Carkulis

Dated

10/11/05

"Idaho Power"

Dated

10/11/05

"Seller"

APPENDIX A

A -1 MONTHLY POWER PRODUCTION AND SWITCHING REPORT

At the end of each month the following required documentation will be submitted to:

Idaho Power Company
Attn: Cogeneration and Small Power Production
P O Box 70
Boise, Idaho 83707

The Meter readings required on this report will be the reading on the Idaho Power Meter Equipment measuring the Facility's total energy production, Station Usage, Inadvertent Energy delivered to Idaho Power and the maximum generated energy (kW) as recorded on the Meter Equipment and/or any other required energy measurements to adequately administer this Agreement.

Idaho Power Company

Cogeneration and Small Power Production

MONTHLY POWER PRODUCTION AND SWITCHING REPORT

Month _____ Year _____

Project Name _____ Project Number: _____
 Address _____ Phone Number: _____
 City _____ State _____ Zip _____

	<u>Facility Output</u>	<u>Station Usage</u>	<u>Station Usage</u>	<u>Metered Maximum Generation</u>
Meter Number: _____	_____	_____	_____	kW
End of Month kWh Meter Reading: _____	_____	_____	_____	
Beginning of Month kWh Meter: _____	_____	_____	_____	
Difference: _____	_____	_____	_____	<u>Net Generation</u>
Times Meter Constant: _____	_____	_____	_____	
kWh for the Month: _____	-	-	=	
Metered Demand: _____	_____	_____	_____	

Breaker Opening Record

Breaker Closing Record

<u>Date</u>	<u>Time</u>	<u>Meter</u>

*	<u>Reason</u>

<u>Date</u>	<u>Time</u>	<u>Meter</u>

- * **Breaker Opening Reason Codes**
- 1 Lack of Adequate Prime Mover
 - 2 Forced Outage of Facility
 - 3 Disturbance of IPCo System
 - 4 Scheduled Maintenance
 - 5 Testing of Protection Systems
 - 6 Cause Unknown
 - 7 Other (Explain)

I hereby certify that the above meter readings are true and correct as of Midnight on the last day of the above month and that the switching record is accurate and complete as required by the Firm Energy Sales Agreement to which I am a Party.

Signature Date

A-2 ROUTINE REPORTING

Idaho Power Contact Information

Daily Energy Production Reporting

Call daily by 10 a.m., 1-800-356-4328 or 1-800-635-1093 and leave the following information:

- Project Identification - Project Name and Project Number
- Current Meter Reading
- Estimated Generation for the current day
- Estimated Generation for the next day

Planned and Unplanned Project outages

Call 1-800-345-1319 and leave the following information:

- Project Identification - Project Name and Project Number
- Approximate time outage occurred
- Estimated day and time of project coming back online

Seller's Contact Information

24-Hour Project Operational Contact

Name: _____
Telephone Number: _____
Cell Phone: _____

Project On-site Contact information

Telephone Number: _____

APPENDIX B

FACILITY AND POINT OF DELIVERY

PROJECT NO. 31720190

MILNER DAM WIND PARK

B-1 DESCRIPTION OF FACILITY

The Facility will consist of 12 Wind turbines; model 77 GE SLE with individual generator ratings of 1.5 MW for each unit, for a total Facility generator rating of 18.0 MW.

B-2 LOCATION OF FACILITY

Near:

Sections: 25, 26, 35 Township: T10S Range: R20E County: Cassia Idaho.

B-3 SCHEDULED FIRST ENERGY AND OPERATION DATE

Seller has selected November 1, 2006 as the estimated Scheduled First Energy Date.

Seller has selected May 1, 2007 as the estimated Scheduled Operation Date.

In making these selections, Seller recognizes that adequate testing of the Facility and completion of all requirements in paragraph 5.2 of this Agreement must be completed prior to the project being granted an Operation Date. Idaho Power, based on the information supplied by the Seller, will schedule its construction in accordance with Schedule 72 and the Generation Interconnection Process.

B-4 MAXIMUM CAPACITY AMOUNT: This value will be 19.2 MW which is consistent with the value provided by the Seller to Idaho Power in the Generation Interconnection process. This value is the maximum energy (MW) that potentially could be delivered by the Seller's Facility to the Idaho Power electrical system at any moment in time.

B-5 POINT OF DELIVERY

“Point of Delivery” means, unless otherwise agreed by both Parties, the point of where the Sellers Facility’s energy is delivered to the Idaho Power electrical system. The Idaho Power Generation Interconnection process will determine the specific Point of Delivery for this Facility. Upon completion of the Generation Interconnection process the Point of Delivery identified by this process will become an integral part of this Agreement.

B-6 LOSSES

If the Idaho Power Metering equipment is capable of measuring the exact energy deliveries by the Seller to the Idaho Power electrical system at the Point of Delivery, no Losses will be calculated for this Facility. If the Idaho Power Metering is unable to measure the exact energy deliveries by the Seller to the Idaho Power electrical system at the Point of Delivery, a Losses calculation will be established to measure the energy losses (kWh) between the Seller’s Facility and the Idaho Power Point of Delivery. This loss calculation will be initially set at 2% of the kWh energy production recorded on the Facility generation metering equipment. At such time as Seller provides Idaho Power with the electrical equipment specifications (transformer loss specifications, conductor sizes, etc) of all of the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power will configure a revised loss calculation formula to be agreed to by both parties and used to calculate the kWh Losses for the remaining term of the Agreement. If at anytime during the term of this Agreement, Idaho Power determines that the loss calculation does not correctly reflect the actual kWh losses attributed to the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power may adjust the calculation and retroactively adjust the previous months kWh loss calculations.

B-7 METERING AND TELEMETRY

The Idaho Power Generation Interconnection process will determine the specific metering and telemetry requirements for this Facility. At the minimum the Metering Equipment and Telemetry

equipment must be able to provide and record hourly energy deliveries to the Point of Delivery and any other energy measurements required to administer this Agreement. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Seller will arrange for and make available at Seller's cost communication circuit(s) compatible to Idaho Power's communications equipment and dedicated to Idaho Power's use terminating at the Idaho Power facilities capable of providing Idaho Power with continuous instantaneous information on the Facilities energy production. Idaho Power provided equipment will be owned and maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total metering cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

B-7 SPECIAL FACILITIES

The Idaho Power Generation Interconnection process will determine the Special Facility requirements for this Facility. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Idaho Power owned equipment will be maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total Special Facility cost will be included in the calculation of the Monthly Operation and

Maintenance Charges specified in Schedule 72.

B-8 REACTIVE POWER

The Idaho Power Generation Interconnection process will determine the reactive power required to be supplied by Idaho Power to the Seller, based upon information provided by the Seller. The Generation Interconnection process will specify the equipment required on the Idaho Power system to meet the Facility's reactive power requirements. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Idaho Power owned equipment will be maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total reactive power cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

B-9 DISCONNECTION EQUIPMENT

Disconnection Equipment is required to insure that the Seller's Facility will be disconnected from Idaho Power's system in the event of (1) the Seller's delivery of energy exceeds the Maximum Capacity Amount or (2) Idaho Power or the Seller require interruption or curtailment of energy deliveries to Idaho Power or (3) a disturbance on either Idaho Power's system or the Seller's Facility. The Idaho Power Generation Interconnection process will determine the Disconnection Equipment specifications and requirements for this Facility, this equipment is for protection of the Idaho Power system and equipment only. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller

provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. Seller will install all Seller provided equipment, control wire and conduit necessary for the operation of the Disconnection Equipment. Through the Generation Interconnection process, Idaho Power will supply details for the disconnection panel and will test the equipment prior to any operations of the Facility, Seller will provide drawings of their interconnection wiring for engineering approval prior to installation. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Idaho Power owned equipment will be maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total Disconnection Equipment cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

B-10 COSTS

The Idaho Power Generation Interconnection process and this Agreement will identify all cost for this Facility to interconnect to the Idaho Power system, including but not limited to the cost of Metering equipment, Telemetry equipment, Special Facilities, Reactive Power, Disconnection equipment, Protection equipment and Interconnection Equipment. As specified in the Generation Interconnection process and in accordance with Schedule 72 and this Agreement the Seller will reimburse Idaho Power for all costs associated with this equipment. In addition to the equipment, installation and construction charges as specified above, during the term of this Agreement, Seller will pay Idaho Power the monthly operation and maintenance charge specified in Schedule 72 or its successor schedules(s). The monthly operations and maintenance charge will begin on the first day of the month following the date which Idaho Power has completed installation of the Idaho Power provided equipment and the interconnection equipment is available for use by the Facility. The monthly operations and maintenance charge will be based upon the initial cost paid

by the Seller in accordance with Schedule 72. Upon reconciliation of the actual costs, in accordance with Schedule 72 the monthly operations and maintenance charge will be adjusted to reflect the actual cost incurred by Idaho Power and previously charged monthly operation and maintenance expense will be revised to reflect the actual cost incurred by Idaho Power. Idaho Power will refund or Seller will remit any underpayment of the adjusted monthly operations and maintenance charge within sixty (60) days of the determination of this amount.

B-11 SALVAGE

No later than sixty (60) days after the termination or expiration of this Agreement, Idaho Power will prepare and forward to Seller an estimate of the remaining value of those Idaho Power furnished Interconnection Facilities as required under Schedule 72, the Generation Interconnection Process and/or described in this Agreement, less the cost of removal and transfer to Idaho Power's nearest warehouse, if the Interconnection Facilities will be removed. If Seller elects not to obtain ownership of the Interconnection Facilities but instead wishes that Idaho Power reimburse the Seller for said Facilities the Seller may invoice Idaho Power for the net salvage value as estimated by Idaho Power and Idaho Power shall pay such amount to Seller within thirty (30) days after receipt of the invoice. Seller shall have the right to offset the invoice amount against any present or future payments due Idaho Power.

APPENDIX C

ENGINEER'S CERTIFICATION

OF

OPERATIONS & MAINTENANCE POLICY

The undersigned _____, on behalf of himself and _____, hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter "Agreement," between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as IPCo Facility No. _____ and is hereinafter referred to as the "Project."
4. That the Project, which is commonly known as the _____, is located in Section ____ Township _____, Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a twenty (20) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has reviewed and/or supervised the review of the Policy for Operation and Maintenance ("O&M") for this Project and it is his professional opinion that, provided said Project has been designed and built to appropriate standards, adherence to said O&M Policy will result in the

Project's producing at or near the design electrical output, efficiency and plant factor for a twenty (20) year period.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.

10. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____

(P.E. Stamp)

Date _____

APPENDIX C

ENGINEER'S CERTIFICATION

OF

ONGOING OPERATIONS AND MAINTENANCE

The undersigned _____, on behalf of himself and _____ hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter "Agreement," between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as IPCo Facility No. _____ and hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the _____ Project, is located at _____.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a twenty (20) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has made a physical inspection of said Project, its operations and maintenance records since the last previous certified inspection. It is Engineer's professional opinion, based on the Project's appearance, that its ongoing O&M has been substantially in accordance with said O&M Policy; that it is in reasonably good operating condition; and that if adherence to said O&M Policy continues, the Project will continue producing at or near its design electrical output, efficiency and plant factor for the remaining _____ years of the Agreement.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.

10. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____

(P.E. Stamp)

Date _____

APPENDIX C
ENGINEER'S CERTIFICATION
OF
DESIGN & CONSTRUCTION ADEQUACY

The undersigned _____, on behalf of himself and _____, hereinafter collectively referred to as "Engineer", hereby states and certifies to Idaho Power as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Firm Energy Sales Agreement, hereinafter "Agreement", between Idaho Power as Buyer, and _____ as Seller, dated _____, _____.
3. That the cogeneration or small power production project, which is the subject of the Agreement and this Statement, is identified as IPCo Facility No _____ and is hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the _____ Project, is located in Section _____, Township _____, Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a _____ (____) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project and has made the analysis of the plans and specifications independently.
8. That Engineer has reviewed the engineering design and construction of the Project, including the civil work, electrical work, generating equipment, prime mover conveyance system, Seller furnished Interconnection Facilities and other Project facilities and equipment.

9. That the Project has been constructed in accordance with said plans and specifications, all applicable codes and consistent with Prudent Electrical Practices as that term is described in the Agreement.

10. That the design and construction of the Project is such that with reasonable and prudent operation and maintenance practices by Seller, the Project is capable of performing in accordance with the terms of the Agreement and with Prudent Electrical Practices for a _____ (_____) year period.

11. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, in interconnecting the Project with its system, is relying on Engineer's representations and opinions contained in this Statement.

12. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____
(P.E. Stamp)

Date _____

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR) **CASE NO. IPC-E-05-30**
APPROVAL OF A FIRM ENERGY SALES)
AGREEMENT FOR THE SALE AND)
PURCHASE OF ELECTRIC ENERGY) **ORDER NO. 29948**
BETWEEN IDAHO POWER COMPANY)
AND MILNER DAM WIND PARK LLC)

On October 20, 2005, Idaho Power Company (Idaho Power; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting approval of a 20-year Firm Energy Sales Agreement (Agreement) between Idaho Power and Milner Dam Wind Park LLC (Milner Dam) dated October 14, 2005. Under the Agreement, Milner Dam will sell and Idaho Power will purchase electric energy generated by Milner Dam, a project located approximately 2,000 yards west of the Milner Dam in Cassia County, Idaho, in an area more particularly described as Sections 25, 26 and 35, Township 10 S, Range 20 E, Boise Meridian, Cassia County, Idaho. The project will consist of twelve (12) 1.5 MW GE wind turbines. The nameplate rating of the project is 18.0 MW. Under normal and/or average conditions, the project will not exceed 10 aMW on a monthly basis. If energy in excess of this amount (Inadvertent Energy) is accidentally generated, Idaho Power will accept Inadvertent Energy that does not exceed the 19.2 MW Maximum Capacity Amount, but will not purchase or pay for it. Agreement ¶ 7.3.2; Appendix B-4.

The Milner Dam project will be a qualified small power production facility (QF) under the applicable provisions of the Public Utility Regulatory Policies Act of 1978 (PURPA). As represented by Idaho Power, the Agreement comports with the terms and conditions of Commission Order No. 29632 (*U.S. Geothermal et al v. Idaho Power*), avoided cost Order No. 29646 and Commission Order Nos. 29839, 29851 and 29872 in Case No. IPC-E-05-22. The Agreement is for a 20-year term and contains the non-levelized published avoided cost rates set forth in Order No. 29646.

In interlocutory Order No. 29839 issued in Case No. IPC-E-05-22 the Commission reduced the size cap for QF wind generation facilities entitled to receive the published avoided cost rates from 10 aMW to 100 kW. In its Order, the Commission further identified several

criteria that it would consider to determine whether a particular QF wind generation facility in the negotiation queue was sufficiently mature so as to justify “grandfathering” the project to entitlement to the published rates. These criteria are as follows:

- (1) Submittal of a signed power purchase agreement to the utility, or
- (2) Submittal to the utility of a completed Application for Interconnection Study and payment of fee.

In addition to a finding of existence of one or both of the preceding threshold criteria, the QF must also be able to demonstrate other indicia of substantial progress and project maturity, e.g.,

- (1) A wind study demonstrating a viable site for the project,
- (2) A signed contract for wind turbines,
- (3) Arranged financing for the project, and/or
- (4) Related progress on the facility permitting and licensing path.

Order No. 29839, p. 10, August 4, 2005; final Order No. 29851. In reconsideration Order No. 29872 issued on September 21, 2005 in the same case, the Commission reaffirmed the grandfathering criteria and changed the “grandfathering” eligibility deadline from the previously-ordered July 1, 2005, to August 4, 2005, the date of interlocutory Order No. 29839.

Considering and weighing all of the Commission-identified criteria, Idaho Power believes that the Milner Dam project is sufficiently far enough along the development path that it should be “grandfathered” to the published rates. Milner Dam has selected November 2006 as the scheduled first energy date and May 2007 as the scheduled operation date.

As reflected in Agreement Section 24, the Agreement will not become effective until the Commission has approved all the Agreement’s terms and conditions and declares that all payments that Idaho Power makes to Milner Dam for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.

On November 7, 2005, the Commission issued a Notice of Application and Modified Procedure in Case No. IPC-E-05-30. The deadline for filing written comments was November 28, 2005. Comments were filed by Commission Staff and Windland Incorporated. Staff has reviewed the submitted Agreement and finds that it comports with the terms and conditions of Commission Order No. 29632 (*U.S. Geothermal, et al. v. Idaho Power*), avoided cost Order No. 29646 and Commission Order Nos. 29839, 29851 and 29872 in Case No. IPC-E-05-22. The Agreement is for a 20-year term and contains the non-levelized published avoided cost rates set

forth in Order No. 29646. Staff recommends approval of the Agreement with an effective date of October 14, 2005.

Windland Incorporated expresses concern that the presence of “signed but not yet built” wind PURPA contracts limits Idaho Power Company’s options to procure other wind energy resources. If projects are approved but not built on schedule, Windland contends that there is a significant financial risk to Idaho ratepayers. Windland contends that Exergy Development Group has been late meeting target dates for three approved projects to date. The United Materials Horseshoe Bend Wind Park project near Great Falls, Montana is now almost a year late in meeting its scheduled on-line date. The Fossil Gulch project near Hagerman, Idaho is on-line but did not achieve the status by its January 1, 2005 milestone target. The Burley Butte project near Burley, Idaho did not meet its October 30, 2005 first energy date. Windland does not expect the Thousand Springs, Pilgrim Stage, Oregon Trail and Tuana Gulch projects to meet their December 31, 2005 scheduled operation dates. If Exergy fails to bring Milner Dam and three other proposed projects on-line by the scheduled May 2007 date, Windland contends that it will be too late for Idaho Power to procure alternate wind resources from another source before the federal production tax credit expires at the end of 2007. Reference Lava Beds (IPC-E-05-31), Notch Butte (IPC-E-05-32), and Salmon Falls (IPC-E-05-33). Windland requests that the Commission examine the totality of facts associated with these four contracts and only approve them if Exergy provides adequate assurances that the projects will be timely built.

Exergy by way of reply contends that Windland raises issues of generic applicability to PURPA contracts relative to penalties or damage calculations for delay in achieving the first operation date for QF projects. Exergy contends that such issues are beyond the scope of the instant proceeding. Exergy further contends that it is black letter law in Idaho that when the Commission makes changes in a utility’s rates or the terms and conditions of service, that such changes may only be made on a prospective basis. *Citing Utah Power & Light v. IPUC*, 107 Idaho 47, 52, 685 P.2d 276 (1984).

Idaho Power in reply comments addresses Exergy contract performance, notes the default provisions of the Agreement and cites prior QF contract policy regarding the inappropriateness of liquidated damage provisions in small QF published rate contracts. Idaho Power contends that the Milner Dam project satisfies the Commission’s grandfathering eligibility criteria and requests that the Commission approve the Firm Energy Sales Agreement.

Idaho Power agrees that the template contract the Company currently utilizes for small QF published rate contracts provides essentially a “free option” to the QF developer to sign a contract, lock-in a rate, and then go see if it can actually put together a project. Windland is correct in its assessment, the Company concurs, that should multiple QF projects entitled to the published rates fail to meet the scheduled operation dates, the collective impact could adversely affect the Company’s resource planning process. Should the Commission find the performance and liquidated damage issues raised by Windland to be worthy of further consideration, Idaho Power contends that the suggested changes are appropriate only for prospective application and recommends that the appropriate procedure would be to open a separate docket.

COMMISSION FINDINGS

The Commission has reviewed and considered the filings of record in Case No. IPC-E-05-30, including the underlying Agreement, the comments and recommendations of Commission Staff and Windland Incorporated, and the reply comments of Exergy and Idaho Power. We have also reviewed public comments filed in support of the project.

The Commission Staff recommends that the Milner Dam Agreement be approved. Windland Incorporated recommends that the Commission require adequate assurances from the developer that the project will be timely built. Idaho Power notes the default provisions of the Agreement and suggests that the generic performance and liquidated damage issues raised by Windland be addressed, if at all, in a separate docket for prospective application in future contracts.

The Commission has considered the concerns raised by Windland regarding the ramifications of an approved QF project failing to come on-line. While the identified risks exist, we find the risk to be small. There is always a risk that QF projects will not come on-line at the time projected. In addition, prices of resources are always changing. The Company’s planning process is flexible enough to accommodate the risk associated with small QF projects. We have no developed record of upfront project failure to justify the imposition of a performance bond requirement assuring that small projects qualifying for published rates will be timely built. Until the facts are demonstrated to be otherwise we do not find a performance bond requirement in this case or an investigation to be warranted.

Idaho Power has presented a Firm Energy Sales Agreement with Milner Dam for Commission consideration and approval. The nameplate rating of the wind facility is 18.0 MW.

The contract is for a 20-year term and contains non-levelized published avoided cost rates for energy deliveries not exceeding 10 aMW on a monthly basis. The Commission finds that the Agreement submitted in this case contains acceptable contract provisions and comports with the terms and conditions of Order Nos. 29632 and 29682 in Case Nos. IPC-E-04-8; 04-10. The Commission finds that the project satisfies the grandfathering eligibility criteria established in Order Nos. 29839 and 29872 in Case No. IPC-E-05-22.

The Commission finds it reasonable that the submitted Agreement be approved without further notice or procedure. IDAPA 31.01.01.204. We further find it reasonable to allow payments made under the Agreement as prudently incurred expenses for ratemaking purposes.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over Idaho Power Company, an electric utility, pursuant to the authority and power granted it under Title 61 of the Idaho Code and the Public Utility Regulatory Policies Act of 1978 (PURPA).

The Commission has authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed term obligations for the purchase of energy from qualified facilities and to implement FERC rules.

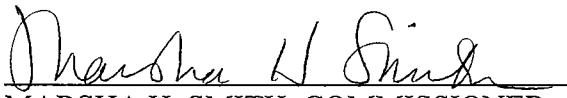
ORDER

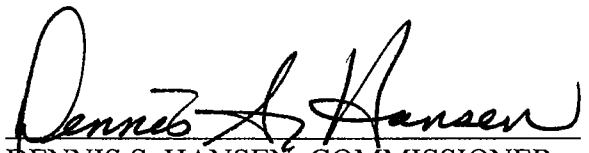
In consideration of the foregoing, IT IS HEREBY ORDERED and the Commission does hereby approve the October 14, 2005 Firm Energy Sales Agreement between Idaho Power Company and Milner Dam Wind Park, LLC.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

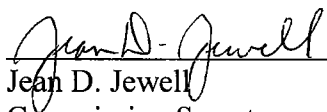
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 10th
day of January 2006.


PAUL KJELLANDER, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


DENNIS S. HANSEN, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

bls/O:IPC-E-05-30_sw

Exhibit 2



IDAHO POWER COMPANY
P.O. BOX 70
BOISE, IDAHO 83707

BARTON L. KLINE
Senior Attorney

October 20, 2005

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington Street
P. O. Box 83720
Boise, Idaho 83720-0074

Re: Case No. IPC-E-05-31
Application For Approval of Firm Energy Sales Agreement
Between Idaho Power and Lava Beds Wind Park LLC

RECEIVED
FILED
2005 OCT 20 PM 4:44
IDAHO PUBLIC
UTILITIES COMMISSION

Dear Ms. Jewell:

Please find enclosed for filing an original and seven (7) copies of Idaho Power Company's Application For Approval of A Firm Energy Sales Agreement for the Sale and Purchase of Electric Energy Between Idaho Power Company and Lava Beds Wind Park LLC.

I would appreciate it if you would return a stamped copy of this transmittal letter in the enclosed self-addressed, stamped envelope.

Very truly yours,

Barton L. Kline

BLK:jb
Enclosures

BARTON L. KLINE, ISB # 1526
MONICA B. MOEN, ISB # 5734
Idaho Power Company
1221 West Idaho Street
P. O. Box 70
Boise, Idaho 83707
Telephone: (208) 388-2682
FAX Telephone: (208) 388-6936

RECEIVED
FILED
2005 OCT 20 PM 1:44
IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for Idaho Power Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)
IDAHO POWER COMPANY FOR APPROVAL)
OF A FIRM ENERGY SALES AGREEMENT)
FOR THE SALE AND PURCHASE OF)
ELECTRIC ENERGY BETWEEN IDAHO)
POWER COMPANY AND LAVA BEDS)
WIND PARK LLC)
_____)

CASE NO. IPC-E-05-31

APPLICATION

COMES NOW, Idaho Power Company ("Idaho Power" or "the Company")
and, pursuant to RP 52, hereby requests that the Commission issue its Order approving
a Firm Energy Sales Agreement between Idaho Power and Lava Beds Wind Park LLC
("Lava Beds") under which Lava Beds would sell and Idaho Power would purchase
electric energy generated by the Lava Beds' Wind Generating Facility located near
Taber, Idaho which is between Blackfoot and Atomic City, Idaho ("Facility").

This Application is based on the following:

I.

Lava Beds represents that the Facility will be a 18 MW wind generating facility that will be a qualified small power production facility under the applicable provisions of the Public Utility Regulatory Policies Act of 1978 ("PURPA").

II.

On October 14, 2005, Idaho Power and Lava Beds entered into a Firm Energy Sales Agreement ("Agreement") pursuant to the terms and conditions of Commission Order Nos. 29632, 29646, 29839, 29851 and 29872. Under the terms of the Agreement, Lava Beds elected to contract with Idaho Power for a twenty-year term. Lava Beds further elected to contract with the Company using the non-levelized published avoided cost rates as currently established by the Commission for projects that, under normal operating conditions, will not generate more than 10 aMW on a monthly basis.

III.

The Agreement is similar in virtually all respects to several recent PURPA agreements entered into by Idaho Power and approved by the Commission (i.e., Pilgrim Stage Station Wind Park, IPUC Order No. 29771; Oregon Trails Wind Park, IPUC Order No. 29772). The Agreement contains terms and conditions previously approved by the Commission in reviewing other PURPA agreements and is consistent with Order No. 29632 in Case No. IPC-E-04-8 (U.S. Geothermal Complaint).

IV.

The nameplate rating of the Facility is expected to be 18 MW. As provided by the Agreement, Lava Beds will be required to provide data on the Facility that Idaho Power will use to confirm that, under normal and/or average conditions, generation from the Facility will not exceed 10 aMW on a monthly basis.

V.

In Order No. 29839 issued in Case No. IPC-E-05-22, the Commission ordered that the size cap for QF wind generation facilities entitled to receive the published avoided cost rates be reduced from 10 aMW to 100 kW. In Order No. 29839, the Commission identified several criteria that the Commission would consider to determine whether a particular QF wind generation facility was sufficiently mature so as to justify "grandfathering" the project to entitlement to the published rates. In Order No. 29872 issued on September 21, 2005 in the same case, the Commission addressed several motions for reconsideration of Order No. 29851 and specified that the deadline for "grandfathering" would be changed from the previously-ordered July 1, 2005, until August 4, 2005, the date of interlocutory Order No. 29839. In Order No. 29872, the Commission confirmed the criteria it would consider for determining eligibility to the published rates for those QFs in the negotiation queue on August 4, 2005. These criteria are as follows:

- (1) submittal of a signed power purchase agreement to the utility, or
- (2) submittal to the utility of a completed Application for Interconnection Study and payment of fee.

In addition to a finding of existence of one or both of the preceding threshold criteria, the QF must also be able to demonstrate other indicia of substantial progress and project maturity, e.g.,

- (1) a wind study demonstrating a viable site for the project,
- (2) a signed contract for wind turbines,
- (3) arranged financing for the project, and/or
- (4) related progress on the facility permitting and licensing path.

(Order No. 29839, p. 10, August 4, 2005)

VI.

In order to comply with the Commission's order regarding grandfathering, Idaho Power identified 14 wind generating project developers that had contacted Idaho Power regarding a potential wind QF project. By letter dated August 8, 2005, the Company requested that each of the identified QF developers provide Idaho Power information regarding their project that the Company could use to determine whether or not the particular wind QF would meet the criteria for grandfathering described by the Commission. A copy of the letter sent to Lava Beds is enclosed as Attachment 1. In response to Attachment 1, Lava Beds provided responses to each of the items identified in Attachment 1. A summary of Lava Beds' responses is enclosed as Attachment 2.

As noted in Attachment 2, several of Lava Beds' responses indicated that Lava Beds was concerned about the confidentiality of documents. Therefore, rather than requiring copies of the documents be provided, Idaho Power reviewed the documents in Lava Beds' office to confirm that the documents supported Lava Beds' representations.

VII.

While Idaho Power reviewed Lava Beds' compliance with all of the criteria identified in Attachment 1, the Company does not expect that a QF must have *completed* all of the criteria to be entitled to grandfather status. The relative weight given to completion of each criterion must be considered on its own merits. For example, one criterion that Idaho Power identified as being entitled to great weight is a signed contract for wind turbines. Based on discussions with QF wind developers and other publicly available information, Idaho Power has determined that the supply of wind turbines is extremely tight and, if a turbine has not been procured, it may be many months before turbines are available. Therefore, possession of a contract that binds a wind turbine manufacturer to deliver the needed wind turbines to the QF within the time periods specified by the QF developer was deemed by Idaho Power to be critical to a determination that a QF was sufficiently mature so as to qualify for grandfathering. The Lava Beds project has entered into such a contract and Idaho Power has reviewed the contract documents binding the wind turbine manufacturer.

VIII.

Considering and weighing all of the Commission-identified criteria, Idaho Power believes that Lava Beds is sufficiently far enough along the development path that it should be "grandfathered" to the published rates.

IX.

Lava Beds has selected November 2006 as the scheduled first energy date and May 2007 as the scheduled operation date for the project. As the Agreement specifies, once a project requests and is assigned an operation date, various terms of

the Agreement are activated, primarily the 90%/110% performance criteria. Prior to the operation date, the Agreement requires that only the monthly variable non-firm price for energy be paid for the energy production from this project. Based on past experience, the Lava Beds developer has determined that it typically takes a few months to fine tune the turbines at each specific project; therefore, the developer has allowed for this fine tuning time frame in the scheduled first energy and schedule operation date. In the Agreement, various requirements have been placed on Lava Beds in order for Idaho Power to accept deliveries from this Facility. Idaho Power will monitor compliance with these initial requirements. In addition, Idaho Power will continue to monitor the ongoing requirements through the full term of this Agreement.

X.

Section 22 of the Agreement provides that the Agreement will not become effective until the Commission has approved all of the agreements, terms and conditions and determined that all payments that Idaho Power will make to Lava Beds for purchases of energy under the Agreement will be allowed as prudently incurred expenses for ratemaking purposes.

XI.

The Agreement, as signed and submitted by the parties hereto, contains non-levelized published avoided cost rates in conformity with applicable IPUC Orders and is enclosed as Attachment 3.

XII.

Service of pleadings, exhibits, orders and other documents relating to this proceeding should be served on the following:

Barton L. Kline, Senior Attorney
Monica B. Moen, Attorney II
Idaho Power Company
P.O. Box 70
Boise, Idaho 83707
bkline@idahopower.com
mmoen@idahopower.com

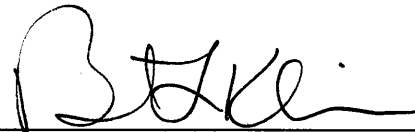
Randy C. Allphin
Contract Administrator
Idaho Power Company
P.O. Box 70
Boise, Idaho 83707
rallphin@idahopower.com

XIII.

NOW, THEREFORE, based on the foregoing, Idaho Power hereby requests that the Commission issue its Order:

- (1) Approving the enclosed Firm Energy Sales Agreement between Idaho Power and Lava Beds without change or condition; and
- (2) Declaring that all payments for purchase of energy under the Agreement will be allowed as prudently incurred expenses for ratemaking purposes.

Respectfully submitted this 20th day of October, 2005.



BARTON L. KLINE
Attorney for Idaho Power Company

ATTACHMENT 1



Randy C. Allphin
Contract Administrator

August 8, 2005

James Carkulis
Exergy Development Group, LLC
P O Box 5212
Helena, MT 59601

E-mail Copy: mtli@in-tch.com

Original: US Mail

RE: Lava Beds Wind Park
Request for a PURPA contract for a proposed Wind Generation Facility.

Dear James:

On June 17, 2005, Idaho Power Company (Company) filed a Petition with the Idaho Public Utilities Commission (Commission) requesting a temporary suspension of the Company's obligation to enter into new contracts to purchase energy generated by qualifying wind-powered small power production facilities (QFs) at the published rates.

On August 4, 2005, the Commission issued Order No. 29839 in response to the Petition filed by Idaho Power Company. In Order No. 29839, the Commission ruled that only intermittent wind generation projects with a nameplate rating of 100 kW or less are eligible for the published avoided cost rates. In this Order the Commission also established criteria to assess the eligibility of larger wind generation projects that had commenced the development process prior to July 1, 2005 to receive PURPA contracts containing the published rates. The eligibility criteria for those larger projects, as set out in Order No. 29839, are as follows:

- 1) Submittal of a signed power purchase agreement to the utility no later than July 1, 2005 or submittal of a completed Application for Interconnection Study and payment of study fees to the utility no later than July 1, 2005.
- 2) In addition to the eligibility criteria set out in item 1, to qualify for the published rates the larger QF must also be able to demonstrate other indicia of substantial progress and project maturity. Examples of these items include but are not limited to:
 - a.) A QF certificate for the project
 - b.) Wind study(s) demonstrating a viable site for the project
 - c.) Project and access road site control
 - d.) A signed contract for the supply of wind turbines
 - e.) Arranged financing for the project
 - f.) Progress on facility permitting and licensing

Our records indicate you contacted Idaho Power concerning a PURPA contract for the Lava Beds Wind Park with an estimated size of 10.5 MW prior to the issuance of Commission Order No. 29839.

Summarized below are Idaho Power Power Supply's records in regards to the data you have submitted for your proposed wind project and the status of meeting the eligibility criteria as described in Commission Order No. 29839.

Item 1

- a.) Submittal of a signed Purchase Power Agreement

Idaho Power has received a developer originated signed Purchase Power Agreement prior to July 1, 2005.

- b.) Submittal of a completed Application for Interconnection

What is the status of your application for interconnection for your proposed wind project?

While this may seem to be a strange request coming from Idaho Power, Federal Energy Regulatory Commission orders prohibit Idaho Power's Power Supply business unit from obtaining this information directly from the Idaho Power Delivery business unit. Please provide complete interconnection application status information, including when application was made for interconnection and evidence that the required study fees have been paid to Idaho Power Delivery business unit.

- ✓ If your project has submitted one or both of the above-required documents please provide the documentation of the items specified below in Item 2.
- ✓ If neither of the above documents had been submitted to Idaho Power Company prior to July 1, 2005, as specified in the Commission Order, your project is subject to the revised published rate eligibility cap for a qualified intermittent wind projects of 100 kW or smaller.

Item 2

Please provide documentation that demonstrates other indicia of substantial progress and project maturity. Examples of these items include but are not limited to:

- a.) A QF certificate for the project
Idaho Power has on file a copy of your notice of Self Certification dated August 3, 2005.
- b.) Wind study demonstrating a viable site for the project
- c.) Project and access road site control
- d.) A signed contract for the supply of wind turbines
- e.) Arranged financing for the project
- f.) Progress on facility permitting and licensing

If there is other data that you believe indicates that your project was substantially mature or complete as of July 1, 2005, please provide this data at the same time.

Please provide the requested data to Randy Allphin at Idaho Power Company:

US Mail: Idaho Power Company
Attn: Randy Allphin
P O Box 70
Boise, Idaho 83707

Email: Rallphin@idahopower.com

Fax: (208) 433-5163

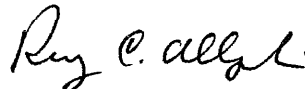
Please mark all Faxes – Attention Randy Allphin and also notify Randy Allphin by e-mail or telephone that a Fax is being sent.

Idaho Power will review the provided data and may request addition information. If it is determined that the project has met the eligibility criteria as established by the Commission, Idaho Power will prepare and provide a draft PURPA agreement for your review. Please note this is not an offer to purchase and no PURPA contract is effective until the Idaho Public Utilities Commission has reviewed it and approved it for ratemaking purposes.

The Commission has set stringent time limits for continued processing of this case. As a result, it is important that we receive your response to this letter no later than **5 PM, Mountain Standard Time, August 15, 2005**. Failure to provide complete information within this time period may mean that your request would not be considered eligible to receive the published rates.

If you have any questions please contact me at your convenience.

Very truly yours,



Randy C. Allphin
Idaho Power Company
Contract Administrator

ATTACHMENT 2

Summary of Compliance Analysis

Lava Beds

18.00 MW

Bingham County

<p>1.) <u>Purchase Power agreement</u> Submittal of a signed power purchase</p> <p style="text-align: center;">And / Or</p> <p><u>Interconnection Application</u> Submittal to the Utility of a completed</p>	<p>Yes, developer provided agreement signed June 17, 2005</p>
<p>2.) <u>Demonstrate other indicia of substantial progress and project maturity</u></p>	<p>Yes, 101.5 MW request filed with IPC on Feb 2005. Fees paid and Feasibility Study completed by IPC.</p>
<p>a. QF Certificate</p>	<p>Filed with FERC 8/3/2005</p>
<p>b. Site Control</p>	<p>8/15/2005 Developer response received, stating all contracts are complete and available for our review upon request.</p> <p>8/23/2005 Company representatives met with developer and reviewed various documents supporting conclusion that adequate site control was in place.</p>
<p>c. Wind Study data</p>	<p>8/15/2005 Developer response received, stating data collected but confidential.</p> <p>8/23/2005 Company representatives met with developer and reviewed various documents indicating wind data had been collected for this project. In addition, the Developer has provided monthly kWh commitments for inclusion in the agreement based upon the collected wind data.</p>
<p>d. Turbine supply confirmation</p>	<p>8/15/2005 Developer response received, stating all contracts are complete but confidential.</p> <p>8/23/2005 Company representatives met with developer and reviewed the Turbine supply agreement and confirmed that a binding agreement with manufacturer for the supply of turbines is in place for this project.</p>
<p>e. Completed project financing</p>	<p>8/15/2005 Letter received, stating premature to have final financing in place until a PPA is complete. Prior Company experience confirms that ability to obtain firm financial commitments usually require PPA in place. Developer has previously obtained financing for other QF projects in Idaho.</p>
<p>f. Planning and Zoning permit progress</p>	<p>8/15/2005 Letter received, stating initial work begun, but premature to finalize until PPA in place. Company's representatives met with developer and confirmed initial permitting due diligence commenced.</p>

ATTACHMENT 3

FIRM ENERGY SALES AGREEMENT

BETWEEN

IDAHO POWER COMPANY

AND

LAVA BEDS WIND PARK LLC

TABLE OF CONTENTS

RECEIVED
FILED



2005 OCT 20 PM 4: 48

IDAHO PUBLIC
UTILITIES COMMISSION

<u>Article</u>	<u>TITLE</u>
1	Definitions
2	No Reliance on Idaho Power
3	Warranties
4	Conditions to Acceptance of Energy
5	Term and Operation Date
6	Purchase and Sale of Net Energy
7	Purchase Price and Method of Payment
8	Environmental Attributes
9	Facility and Interconnection
10	Disconnection Equipment
11	Metering and Telemetry
12	Records
13	Protection
14	Operations
15	Indemnification and Insurance
16	Force Majeure
17	Land Rights
18	Liability; Dedication
19	Several Obligations
20	Waiver
21	Choice of Laws and Venue
22	Disputes and Default
23	Governmental Authorization
24	Commission Order
25	Successors and Assigns
26	Modification
27	Taxes
28	Notices
29	Additional Terms and Conditions
30	Severability
31	Counterparts
32	Entire Agreement Signatures
	Appendix A
	Appendix B
	Appendix C

FIRM ENERGY SALES AGREEMENT
(10 aMW or Less)

LAVA BEDS WIND PARK LLC

Project Number: 41455200

THIS AGREEMENT, entered into on this 14 day of Oct 2005 between LAVA BEDS WIND PARK, an Idaho limited liability company (Seller), and IDAHO POWER COMPANY, an Idaho corporation (Idaho Power), hereinafter sometimes referred to collectively as "Parties" or individually as "Party."

WITNESSETH:

WHEREAS, Seller will design, construct, own, maintain and operate an electric generation facility; and

WHEREAS, Seller wishes to sell, and Idaho Power is willing to purchase, firm electric energy produced by the Seller's Facility.

THEREFORE, In consideration of the mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

ARTICLE I: DEFINITIONS

As used in this Agreement and the appendices attached hereto, the following terms shall have the following meanings:

- 1.1 "Commission" - The Idaho Public Utilities Commission.
- 1.2 "Contract Year" - The period commencing each calendar year on the same calendar date as the Operation Date and ending 364 days thereafter.
- 1.3 "Designated Dispatch Facility" - Idaho Power's Systems Operations Group, or any subsequent group designated by Idaho Power.
- 1.4 "Disconnection Equipment" - All equipment specified in Schedule 72 and the Generation Interconnection Process and any additional equipment specified in Appendix B.
- 1.5 "Facility" - That electric generation facility described in Appendix B of this Agreement.

- 1.6 "First Energy Date" - The day commencing at 0001 hours, Mountain Time, following the day that Seller has satisfied the requirements of Article IV and the Seller begins delivering energy to Idaho Power's system at the Point of Delivery.
- 1.7 "Generation Interconnection Process" – Idaho Power's generation interconnection application and engineering review process developed to ensure a safe and reliable generation interconnection in compliance with all applicable regulatory requirements, Prudent Electrical Practices and national safety standards.
- 1.8 "Inadvertent Energy" – Electric energy Seller does not intend to generate. Inadvertent energy is more particularly described in paragraph 7.3 of this Agreement.
- 1.9 "Interconnection Facilities" - All equipment specified in Schedule 72 and the Generation Interconnection Process and any additional equipment specified in Appendix B.
- 1.10 "Initial Capacity Determination" – The process by which Idaho Power confirms that under normal or average design conditions the Facility will generate at no more than 10 average MW per month and is therefore eligible to be paid the published rates in accordance with Commission Order No. 29632.
- 1.11 "Losses" – The loss of electrical energy expressed in kilowatt hours (kWh) occurring as a result of the transformation and transmission of energy between the point where the Facility's energy is metered and the point the Facility's energy is delivered to the Idaho Power electrical system. The loss calculation formula will be as specified in Appendix B of this Agreement.
- 1.12 "Market Energy Cost" – Eighty-five percent (85%) of the weighted average of the daily on-peak and off-peak Dow Jones Mid-Columbia Index (Dow Jones Mid-C Index) prices for non-firm energy. If the Dow Jones Mid-Columbia Index price is discontinued by the reporting agency, both Parties will mutually agree upon a replacement index, which is similar to the Dow Jones Mid-Columbia Index. The selected replacement index will be consistent with other similar agreements and a commonly used index by the electrical industry.
- 1.13 "Material Breach" – A Default (paragraph 22.2.1) subject to paragraph 22.2.2.

- 1.14 “Maximum Capacity Amount” – The maximum capacity (MW) of the Facility will be as specified in Appendix B of this Agreement.
- 1.15 “Metering Equipment” - All equipment specified in Schedule 72, the Generation Interconnection Process, this Agreement and any additional equipment specified in Appendix B required to measure, record and telemeter power flows between the Seller's electric generation plant and Idaho Power's system.
- 1.16 “Net Energy” – All of the electric energy produced by the Facility, less Station Use, less Losses, expressed in kilowatt hours (kWh). Seller commits to deliver all Net Energy to Idaho Power at the Point of Delivery for the full term of the Agreement. Net Energy does not include Inadvertent Energy.
- 1.17 “Operation Date” – The day commencing at 0001 hours, Mountain Time, following the day that all requirements of paragraph 5.2 have been completed.
- 1.18 “Point of Delivery” – The location specified in Appendix B, where Idaho Power’s and the Seller’s electrical facilities are interconnected.
- 1.19 “Prudent Electrical Practices” – Those practices, methods and equipment that are commonly and ordinarily used in electrical engineering and operations to operate electric equipment lawfully, safely, dependably, efficiently and economically.
- 1.20 “Scheduled Operation Date” – The date specified in Appendix B when Seller anticipates achieving the Operation Date.
- 1.21 “Schedule 72” – Idaho Power’s Tariff No 101, Schedule 72 or its successor schedules as approved by the Commission.
- 1.22 “Season” – The three periods identified in paragraph 6.2.1 of this Agreement.
- 1.23 “Special Facilities” - Additions or alterations of transmission and/or distribution lines and transformers as described in Appendix B, Schedule 72 or the Generation Interconnection Process required to safely interconnect the Seller's Facility to the Idaho Power system.
- 1.24 “Station Use” – Electric energy that is used to operate equipment that is auxiliary or otherwise related to the production of electricity by the Facility.

- 1.25 “Surplus Energy” – (1) Net Energy produced by the Seller’s Facility and delivered to the Idaho Power electrical system during the month which exceeds 110% of the monthly Net Energy Amount for the corresponding month specified in paragraph 6.2. or (2) If the Net Energy produced by the Seller’s Facility and delivered to the Idaho Power electrical system during the month is less than 90% of the monthly Net Energy Amount for the corresponding month specified in paragraph 6.2, then all Net Energy delivered by the Facility to the Idaho Power electrical system for that given month or (3) All Net Energy produced by the Seller’s Facility and delivered by the Facility to the Idaho Power electrical system prior to the Operation Date.
- 1.26 “Total Cost of the Facility” - The total cost of structures, equipment and appurtenances.

ARTICLE II: NO RELIANCE ON IDAHO POWER

- 2.1 Seller Independent Investigation - Seller warrants and represents to Idaho Power that in entering into this Agreement and the undertaking by Seller of the obligations set forth herein, Seller has investigated and determined that it is capable of performing hereunder and has not relied upon the advice, experience or expertise of Idaho Power in connection with the transactions contemplated by this Agreement.
- 2.2 Seller Independent Experts - All professionals or experts including, but not limited to, engineers, attorneys or accountants, that Seller may have consulted or relied on in undertaking the transactions contemplated by this Agreement have been solely those of Seller.

ARTICLE III: WARRANTIES

- 3.1 No Warranty by Idaho Power - Any review, acceptance or failure to review Seller’s design, specifications, equipment or facilities shall not be an endorsement or a confirmation by Idaho Power and Idaho Power makes no warranties, expressed or implied, regarding any aspect of Seller’s design, specifications, equipment or facilities, including, but not limited to, safety, durability, reliability, strength, capacity, adequacy or economic feasibility.
- 3.2 Qualifying Facility Status - Seller warrants that the Facility is a “Qualifying Facility,” as that term

is used and defined in 18 CFR §292.207. After initial qualification, Seller will take such steps as may be required to maintain the Facility's Qualifying Facility status during the term of this Agreement and Seller's failure to maintain Qualifying Facility status will be a Material Breach of this Agreement. Idaho Power reserves the right to review the Seller's Qualifying Facility status and associated support and compliance documents at anytime during the term of this Agreement.

ARTICLE IV: CONDITIONS TO ACCEPTANCE OF ENERGY

- 4.1 Prior to the First Energy Date and as a condition of Idaho Power's acceptance of deliveries of energy from the Seller, Seller shall:
- 4.1.1 Submit proof to Idaho Power that all licenses, permits or approvals necessary for Seller's operations have been obtained from applicable federal, state or local authorities, including, but not limited to, evidence of compliance with Subpart B, 18 CFR 292.207.
- 4.1.2 Opinion of Counsel - Submit to Idaho Power an Opinion Letter signed by an attorney admitted to practice and in good standing in the State of Idaho providing an opinion that Seller's licenses, permits and approvals as set forth in paragraph 4.1.1 above are legally and validly issued, are held in the name of the Seller and, based on a reasonable independent review, counsel is of the opinion that Seller is in substantial compliance with said permits as of the date of the Opinion Letter. The Opinion Letter will be in a form acceptable to Idaho Power and will acknowledge that the attorney rendering the opinion understands that Idaho Power is relying on said opinion. Idaho Power's acceptance of the form will not be unreasonably withheld. The Opinion Letter will be governed by and shall be interpreted in accordance with the legal opinion accord of the American Bar Association Section of Business Law (1991).
- 4.1.3 Initial Capacity Determination - Submit to Idaho Power such data as Idaho Power may reasonably require to perform the Initial Capacity Determination. Such data will include but not be limited to, equipment specifications, prime mover data, resource characteristics, normal and/or average operating design conditions and Station Use data.

Upon receipt of this information, Idaho Power will review the provided data and if necessary, request additional data to complete the Initial Capacity Determination within a reasonable time.

- 4.1.4 Engineer's Certifications - Submit an executed Engineer's Certification of Design & Construction Adequacy and an Engineer's Certification of Operations and Maintenance (O&M) Policy as described in Commission Order No. 21690. These certificates will be in the form specified in Appendix C but may be modified to the extent necessary to recognize the different engineering disciplines providing the certificates.
- 4.1.5 Insurance - Submit written proof to Idaho Power of all insurance required in Article XV.
- 4.1.6 Interconnection – Provide written proof to Idaho Power that all Schedule 72 and Generation Interconnection Process requirements have been completed.
- 4.1.7 Written Acceptance – Request and obtain written confirmation from Idaho Power that all conditions to acceptance of energy have been fulfilled. Such written confirmation shall be provided within a commercially reasonable time following the Seller's request and will not be unreasonably withheld by Idaho Power.

ARTICLE V: TERM AND OPERATION DATE

- 5.1 Term - Subject to the provisions of paragraph 5.2 below, this Agreement shall become effective on the date first written and shall continue in full force and effect for a period of twenty (20) Contract Years from the Operation Date.
- 5.2 Operation Date - The Operation Date may occur only after the Facility has achieved all of the following:
 - a) Achieved the First Energy Date.
 - b) Commission approval of this Agreement in a form acceptable to Idaho Power has been received.
 - c) Seller has demonstrated to Idaho Power's satisfaction that the Facility is complete and able to provide energy in a consistent, reliable and safe manner and has requested an

Operation Date in written form.

- d) Seller has requested an Operation Date from Idaho Power in a written format.
- e) Seller has received written confirmation from Idaho Power of the Operation Date.

This confirmation will not be unreasonably withheld by Idaho Power.

5.3 Seller's failure to achieve the Operation Date within ten (10) months of the Scheduled Operation Date will be an event of default.

ARTICLE VI: PURCHASE AND SALE OF NET ENERGY

6.1 Delivery and Acceptance of Net Energy - Except when either Party's performance is excused as provided herein, Idaho Power will purchase and Seller will sell all of the Net Energy to Idaho Power at the Point of Delivery. All Inadvertent Energy produced by the Facility will also be delivered by the Seller to Idaho Power at the Point of Delivery. At no time will the total amount of Net Energy and/or Inadvertent Energy produced by the Facility and delivered by the Seller to the Point of Delivery exceed the Maximum Capacity Amount.

6.2 Net Energy Amounts - Seller intends to produce and deliver Net Energy in the following monthly amounts:

6.2.1 Initial Year Monthly Net Energy Amounts:

	<u>Month</u>	<u>kWh</u>
Season 1	March	6,542,180
	April	6,307,065
	May	6,114,004
Season 2	July	4,792,529
	August	4,160,005
	November	4,725,276
	December	3,781,602
Season 3	June	4,708,479
	September	3,779,208
	October	3,199,119
	January	3,990,161
	February	3,310,133

6.2.2 Ongoing Monthly Net Energy Amounts - Seller shall initially provide Idaho Power with one year of monthly generation estimates (Initial Year Monthly Net Energy Amounts) and beginning at the end of month nine and every three months thereafter provide Idaho Power with an additional three months of forward generation estimates. This information will be provided to Idaho Power by written notice in accordance with paragraph 28.1, no later than 5:00 PM of the 5th day following the end of the previous month. If the Seller does not provide the Ongoing Monthly Net Energy amounts in a timely manner, Idaho Power will use the most recent 3 months of the Initial Year Monthly Net Energy Amounts specified in paragraph 6.2.1 for the next 3 months of monthly Net Energy amounts.

6.2.3 Seller's Adjustment of Net Energy Amount –

6.2.3.1 No later than the Operation Date, by written notice given to Idaho Power in accordance with paragraph 28.1, the Seller may revise all of the previously provided Initial Year Monthly Net Energy Amounts.

6.2.3.2 Beginning with the end of the 3rd month after the Operation Date and at the end of every third month thereafter: (1) the Seller may not revise the immediate next three months of previously provided Net Energy Amounts, (2) but by written notice given to Idaho Power in accordance with paragraph 28.1, no later than 5:00 PM of the 5th day following the end of the previous month, the Seller may revise all other previously provided Net Energy Amounts. Failure to provide timely written notice of changed amounts will be deemed to be an election of no change.

6.2.4 Idaho Power Adjustment of Net Energy Amount – If Idaho Power is excused from accepting the Seller's Net Energy as specified in paragraph 14.2.1 or if the Seller declares a Suspension of Energy Deliveries as specified in paragraph 14.3.1 and the Seller's declared Suspension of Energy Deliveries is accepted by Idaho Power, the Net Energy

Amount as specified in paragraph 6.2 for the specific month in which the reduction or suspension under paragraph 14.2.1 or 14.3.1 occurs will be reduced in accordance with the following:

Where:

NEA = Current Month's Net Energy Amount (Paragraph 6.2)

SGU = a.) If Idaho Power is excused from accepting the Seller's Net Energy as specified in paragraph 14.2.1 this value will be equal to the percentage of curtailment as specified by Idaho Power multiplied by the TGU as defined below.

b.) If the Seller declares a Suspension of Energy Deliveries as specified in paragraph 14.3.1 this value will be the sum of the individual generation units size ratings as specified in Appendix B that are impacted by the circumstances causing the Seller to declare a Suspension of Energy Deliveries.

TGU = Sum of all of the individual generator ratings of the generation units at this Facility as specified in Appendix B of this agreement.

RSH = Actual hours the Facility's Net Energy deliveries were either reduced or suspended under paragraph 14.2.1 or 14.3.1

TH = Actual total hours in the current month

Resulting formula being:

$$\text{Adjusted Net Energy Amount} = \text{NEA} - \left(\left(\frac{\text{SGU}}{\text{TGU}} \times \text{NEA} \right) \times \left(\frac{\text{RSH}}{\text{TH}} \right) \right)$$

This Adjusted Net Energy Amount will be used in applicable Surplus Energy calculations for only the specific month in which Idaho Power was excused from accepting the Seller's Net Energy or the Seller declared a Suspension of Energy.

6.3 Unless excused by an event of Force Majeure, Seller's failure to deliver Net Energy in any Contract Year in an amount equal to at least ten percent (10%) of the sum of the Initial Year Net Energy Amounts as specified in paragraph 6.2 shall constitute an event of default.

ARTICLE VII: PURCHASE PRICE AND METHOD OF PAYMENT

7.1 Net Energy Purchase Price – For all Net Energy, Idaho Power will pay the non-levelized energy price in accordance with Commission Order 29646 with seasonalization factors applied:

<u>Year</u>	Season 1 - (73.50 %)	Season 2 - (120.00 %)	Season 3 - (100.00 %)
	<u>Mills/kWh</u>	<u>Mills/kWh</u>	<u>Mills/kWh</u>
2005	37.00	60.41	50.34
2006	37.85	61.80	51.50
2007	38.73	63.23	52.69
2008	39.62	64.68	53.90
2009	40.53	66.17	55.14
2010	41.46	67.69	56.41
2011	42.42	69.25	57.71
2012	43.39	70.85	59.04
2013	44.39	72.48	60.40
2014	45.42	74.16	61.80
2015	46.47	75.86	63.22
2016	47.54	77.62	64.68
2017	48.63	79.40	66.17
2018	49.76	81.24	67.70
2019	50.91	83.11	69.26
2020	52.07	85.02	70.85
2021	53.28	86.99	72.49
2022	54.51	88.99	74.16
2023	55.76	91.04	75.87
2024	57.05	93.14	77.62
2025	58.37	95.29	79.41
2026	59.72	97.50	81.25

7.2 Surplus Energy Price - For all Surplus Energy, Idaho Power shall pay to the Seller the current month's Market Energy Cost or the Net Energy Purchase Price specified in paragraph 7.1, whichever is lower.

7.3 Inadvertent Energy –

7.3.1 Inadvertent Energy is electric energy produced by the Facility, expressed in kWh, which the Seller delivers to Idaho Power at the Point of Delivery that exceeds 10,000 kW multiplied by the hours in the specific month in which the energy was delivered. (For example January contains 744 hours. 744 hours times 10,000 kW = 7,440,000 kWh. Energy delivered in January in excess of 7,440, 000 kWh in this example would be

Inadvertent Energy.)

7.3.2 Although Seller intends to design and operate the Facility to generate no more than 10 average MW and therefore does not intend to generate Inadvertent Energy, Idaho Power will accept Inadvertent Energy that does not exceed the Maximum Capacity Amount but will not purchase or pay for Inadvertent Energy

7.4 Payment Due Date – Energy payments to the Seller will be disbursed within 30 days of the date which Idaho Power receives and accepts the documentation of the monthly Net Energy and Inadvertent Energy actually produced by the Seller’s Facility and delivered to Idaho Power as specified in Appendix A.

7.5 Continuing Jurisdiction of the Commission – This Agreement is a special contract and, as such, the rates, terms and conditions contained in this Agreement will be construed in accordance with Idaho Power Company v. Idaho Public Utilities Commission and Afton Energy, Inc., 107 Idaho 781, 693 P.2d 427 (1984); Idaho Power Company v. Idaho Public Utilities Commission, 107 Idaho 1122, 695 P.2d 1 261 (1985); Afton Energy, Inc. v. Idaho Power Company, 111 Idaho 925, 729 P.2d 400 (1986); Section 210 of the Public Utilities Regulatory Policies Act of 1978 and 18 CFR §292.303-308.

ARTICLE VIII: ENVIRONMENTAL ATTRIBUTES

8.1 Idaho Power waives any claim to ownership of Environmental Attributes. Environmental Attributes include, but are not limited to, Green Tags, Green Certificates, Renewable Energy Credits (RECs) and Tradable Renewable Certificates (TRCs) directly associated with the production of energy from the Seller’s Facility.

ARTICLE IX: FACILITY AND INTERCONNECTION

9.1 Design of Facility - Seller will design, construct, install, own, operate and maintain the Facility and any Seller-owned Interconnection Facilities so as to allow safe and reliable generation and delivery of Net Energy and Inadvertent Energy to the Idaho Power Point of Delivery for the full

term of the Agreement.

- 9.2 Interconnection Facilities - Except as specifically provided for in this Agreement, the required Interconnection Facilities will be in accordance with Schedule 72, the Generation Interconnection Process and Appendix B. The Seller is responsible for all costs associated with this equipment as specified in Schedule 72 and the Generation Interconnection Process, including but not limited to initial costs incurred by Idaho Power for equipment costs, installation costs and ongoing monthly Idaho Power operations and maintenance expenses.

ARTICLE X: DISCONNECTION EQUIPMENT

- 10.1 Except as specifically provided for in this Agreement, the required Disconnection Equipment will be in accordance with Schedule 72, the Generation Interconnection Process and Appendix B. The Seller is responsible for all costs associated with this equipment as specified in Schedule 72 and the Generation Interconnection Process, including but not limited to initial costs incurred by Idaho Power for equipment costs, installation costs and Idaho Power ongoing monthly operations and monthly maintenance expenses.

ARTICLE XI: METERING AND TELEMETRY

- 11.1 Metering and Telemetry - Idaho Power shall, for the account of Seller, provide, install, and maintain Metering Equipment to be located at a mutually agreed upon location to record and measure power flows to Idaho Power in accordance with Schedule 72, Generation Interconnection Process and Appendix B of this Agreement. The Metering Equipment will be at the location and the type required to measure, record and report the Facility's Net Energy, Station Use, Inadvertent Energy and maximum energy deliveries (kW) in a manner to provide Idaho Power adequate energy measurement data to administer this Agreement and to integrate this Facility's energy production into the Idaho Power electrical system. All Metering Equipment and installation costs shall be borne by Seller, including costs incurred by Idaho Power for inspecting and testing such equipment at reasonable intervals at Idaho Power's actual cost of providing this

Metering Equipment and services. The Metering Equipment shall be at the location described in Appendix B of this Agreement. All meters used to determine the billing hereunder shall be sealed and the seals shall be broken only by Idaho Power when the meters are to be inspected, tested or adjusted.

11.2 Meter Inspection - Idaho Power shall inspect installations annually and test meters on the applicable periodic test schedule relevant to the equipment installed as specified in Appendix B of this Agreement. If requested by Seller, Idaho Power shall make a special inspection or test of a meter and Seller shall pay the reasonable costs of such special inspection. Both Parties shall be notified of the time when any inspection or test shall take place, and each Party may have representatives present at the test or inspection. If a meter is found to be inaccurate or defective, it shall be adjusted, repaired or replaced, at Idaho Power's expense in order to provide accurate metering. If a meter fails to register, or if the measurement made by a meter during a test varies by more than two percent (2 %) from the measurement made by the standard meter used in the test, adjustment (either upward or downward) to the payments Seller has received shall be made to correct those payments affected by the inaccurate meter for the actual period during which inaccurate measurements were made. If the actual period cannot be determined, corrections to the payments will be based on the shorter of (1) a period equal to one-half the time from the date of the last previous test of the meter to the date of the test which established the inaccuracy of the meter; or (2) six (6) months.

11.3 Telemetry – Idaho Power will install, operate and maintain at Seller's expense metering, communications and telemetry equipment which will be capable of providing Idaho Power with continuous instantaneous telemetry of Seller's Net Energy and Inadvertent Energy produced and delivered to the Idaho Power Point of Delivery to Idaho Power's Designated Dispatch Facility.

ARTICLE XII - RECORDS

12.1 Maintenance of Records - Seller shall maintain at the Facility or such other location mutually acceptable to the Parties adequate total generation, Net Energy, Station Use, Inadvertent Energy

and maximum generation (kW) records in a form and content recommended by Idaho Power.

- 12.2 Inspection - Either Party, after reasonable notice to the other Party, shall have the right, during normal business hours, to inspect and audit any or all generation, Net Energy, Station Use, Inadvertent Energy and maximum generation (kW) records pertaining to the Seller's Facility.

ARTICLE XIII - PROTECTION

- 13.1 Seller shall construct, operate and maintain the Facility and Seller-furnished Interconnection Facilities in accordance with Schedule 72, the Generation Interconnection Process, Appendix B of this Agreement, Prudent Electrical Practices, the National Electrical Code, the National Electrical Safety Code and any other applicable local, state and federal codes. Seller acknowledges receipt of the Generation Interconnection Process. If, in the reasonable opinion of Idaho Power, Seller's operation of the Facility or Interconnection Facilities is unsafe or may otherwise adversely affect Idaho Power's equipment, personnel or service to its customers, Idaho Power may physically interrupt the flow of energy from the Facility as specified within Schedule 72, the Generation Interconnection Process or take such other reasonable steps as Idaho Power deems appropriate. Except in the case of an emergency, Idaho Power will attempt to notify Seller of such interruption prior to its occurrence as provided in paragraph 14.9. Seller shall provide and maintain adequate protective equipment sufficient to prevent damage to the Facility and Seller-furnished Interconnection Facilities. In some cases, some of Seller's protective relays will provide back-up protection for Idaho Power's facilities. In that event, Idaho Power will test such relays annually and Seller will pay the actual cost of such annual testing.

ARTICLE XIV - OPERATIONS

- 14.1 Communications - Idaho Power and the Seller shall maintain appropriate operating communications through Idaho Power's Designated Dispatch Facility in accordance with Appendix A of this Agreement.

14.2 Energy Acceptance –

14.2.1 Idaho Power shall be excused from accepting and paying for Net Energy or accepting Inadvertent Energy produced by the Facility and delivered by the Seller to the Point of Delivery, if it is prevented from doing so by an event of Force Majeure, or if Idaho Power determines that curtailment, interruption or reduction of Net Energy or Inadvertent Energy deliveries is necessary because of line construction or maintenance requirements, emergencies, electrical system operating conditions on its system or as otherwise required by Prudent Electrical Practices. If, for reasons other than an event of Force Majeure, Idaho Power requires such a curtailment, interruption or reduction of Net Energy deliveries for a period that exceeds twenty (20) days, beginning with the twenty-first day of such interruption, curtailment or reduction, Seller will be deemed to be delivering Net Energy at a rate equivalent to the pro rata daily average of the amounts specified for the applicable month in paragraph 6.2. Idaho Power will notify Seller when the interruption, curtailment or reduction is terminated.

14.2.2 If, in the reasonable opinion of Idaho Power, Seller's operation of the Facility or Interconnection Facilities is unsafe or may otherwise adversely affect Idaho Power's equipment, personnel or service to its customers, Idaho Power may physically interrupt the flow of energy from the Facility as specified within Schedule 72 or take such other reasonable steps as Idaho Power deems appropriate.

14.2.3 Under no circumstances will the Seller deliver Net Energy and/or Inadvertent Energy from the Facility to the Point of Delivery in an amount that exceeds the Maximum Capacity Amount. Seller's failure to limit deliveries to the Maximum Capacity Amount will be a Material Breach of this Agreement.

14.3 Seller Declared Suspension of Energy Deliveries

14.3.1 If the Seller's Facility experiences a forced outage due to equipment failure which is not caused by an event of Force Majeure or by neglect, disrepair or lack of adequate preventative maintenance of the Seller's Facility, Seller may, after giving notice as

provided in paragraph 14.3.2 below, temporarily suspend all deliveries of Net Energy to Idaho Power from the Facility or from individual generation unit(s) within the Facility impacted by the forced outage for a period of not less than 48 hours to correct the forced outage condition (“Declared Suspension of Energy Deliveries”). The Seller’s Declared Suspension of Energy Deliveries will begin at the start of the next full hour following the Seller’s telephone notification as specified in paragraph 14.3.2 and will continue for the time as specified (not less than 48 hours) in the written notification provided by the Seller. In the month(s) in which the Declared Suspension of Energy occurred, the Net Energy Amount will be adjusted as specified in paragraph 6.2.4.

14.3.2 If the Seller desires to initiate a Declared Suspension of Energy Deliveries as provided in paragraph 14.3.1, the Seller will notify the Designated Dispatch Facility by telephone. The beginning hour of the Declared Suspension of Energy Deliveries will be at the earliest the next full hour after making telephone contact with Idaho Power. The Seller will, within 24 hours after the telephone contact, provide Idaho Power a written notice in accordance with Article XXVIII that will contain the beginning hour and duration of the Declared Suspension of Energy Deliveries and a description of the conditions that caused the Seller to initiate a Declared Suspension of Energy Deliveries. Idaho Power will review the documentation provided by the Seller to determine Idaho Power’s acceptance of the described forced outage as qualifying for a Declared Suspension of Energy Deliveries as specified in paragraph 14.3.1. Idaho Power’s acceptance of the Seller’s forced outage as an acceptable forced outage will be based upon the clear documentation provided by the Seller that the forced outage is not due to an event of Force Majeure or by neglect, disrepair or lack of adequate preventative maintenance of the Seller’s Facility.

14.5 Voltage Levels - Seller, in accordance with Prudent Electrical Practices shall minimize voltage fluctuations and maintain voltage levels acceptable to Idaho Power. Idaho Power may, in accordance with Prudent Electrical Practices, upon one hundred eighty (180) days' notice to the Seller, change its nominal operating voltage level by more than ten percent (10%) at the Point of

Delivery, in which case Seller shall modify, at Idaho Power's expense, Seller's equipment as necessary to accommodate the modified nominal operating voltage level.

- 14.6 Generator Ramping - Idaho Power, in accordance with Prudent Electrical Practices, shall have the right to limit the rate that generation is changed at startup, during normal operation or following reconnection to Idaho Power's electrical system. Generation ramping may be required to permit Idaho Power's voltage regulation equipment time to respond to changes in power flow.
- 14.7 Scheduled Maintenance – On or before January 31 of each calendar year, Seller shall submit a written proposed maintenance schedule of significant Facility maintenance for that calendar year and Idaho Power and Seller shall mutually agree as to the acceptability of the proposed schedule. The Parties determination as to the acceptability of the Seller's timetable for scheduled maintenance will take into consideration Prudent Electrical Practices, Idaho Power system requirements and the Seller's preferred schedule. Neither Party shall unreasonably withhold acceptance of the proposed maintenance schedule.
- 14.8 Maintenance Coordination - The Seller and Idaho Power shall, to the extent practical, coordinate their respective line and Facility maintenance schedules such that they occur simultaneously.
- 14.9 Contact Prior to Curtailment - Idaho Power will make a reasonable attempt to contact the Seller prior to exercising its rights to curtail, interrupt or reduce deliveries from the Seller's Facility. Seller understands that in the case of emergency circumstances, real time operations of the electrical system, and/or unplanned events Idaho Power may not be able to provide notice to the Seller prior to interruption, curtailment, or reduction of electrical energy deliveries to Idaho Power.

ARTICLE XV: INDEMNIFICATION AND INSURANCE

- 15.1 Indemnification - Each Party shall agree to hold harmless and to indemnify the other Party, its officers, agents, affiliates, subsidiaries, parent company and employees against all loss, damage, expense and liability to third persons for injury to or death of person or injury to property, proximately caused by the indemnifying Party's construction, ownership, operation or

maintenance of, or by failure of, any of such Party's works or facilities used in connection with this Agreement. The indemnifying Party shall, on the other Party's request, defend any suit asserting a claim covered by this indemnity. The indemnifying Party shall pay all costs, including reasonable attorney fees that may be incurred by the other Party in enforcing this indemnity.

15.2 Insurance - During the term of this Agreement, Seller shall secure and continuously carry the following insurance coverage:

15.2.1 Comprehensive General Liability Insurance for both bodily injury and property damage with limits equal to \$1,000,000, each occurrence, combined single limit. The deductible for such insurance shall be consistent with current Insurance Industry Utility practices for similar property.

15.2.2 The above insurance coverage shall be placed with an insurance company with an A.M. Best Company rating of A- or better and shall include:

- (a) An endorsement naming Idaho Power as an additional insured and loss payee as applicable; and
- (b) A provision stating that such policy shall not be canceled or the limits of liability reduced without sixty (60) days' prior written notice to Idaho Power.

15.3 Seller to Provide Certificate of Insurance - As required in paragraph 4.1.5 herein and annually thereafter, Seller shall furnish Idaho Power a certificate of insurance, together with the endorsements required therein, evidencing the coverage as set forth above.

15.4 Seller to Notify Idaho Power of Loss of Coverage - If the insurance coverage required by paragraph 15.2 shall lapse for any reason, Seller will immediately notify Idaho Power in writing. The notice will advise Idaho Power of the specific reason for the lapse and the steps Seller is taking to reinstate the coverage. Failure to provide this notice and to expeditiously reinstate or replace the coverage will constitute a Material Breach of this Agreement.

ARTICLE XVI. FORCE MAJEURE

16.1 As used in this Agreement, "Force Majeure" or "an event of Force Majeure" means any cause

beyond the control of the Seller or of Idaho Power which, despite the exercise of due diligence, such Party is unable to prevent or overcome. Force Majeure includes, but is not limited to, acts of God, fire, flood, storms, wars, hostilities, civil strife, strikes and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, or changes in law or regulation occurring after the Operation Date, which, by the exercise of reasonable foresight such party could not reasonably have been expected to avoid and by the exercise of due diligence, it shall be unable to overcome. If either Party is rendered wholly or in part unable to perform its obligations under this Agreement because of an event of Force Majeure, both Parties shall be excused from whatever performance is affected by the event of Force Majeure, provided that:

- (1) The non-performing Party shall, as soon as is reasonably possible after the occurrence of the Force Majeure, give the other Party written notice describing the particulars of the occurrence.
- (2) The suspension of performance shall be of no greater scope and of no longer duration than is required by the event of Force Majeure.
- (3) No obligations of either Party which arose before the occurrence causing the suspension of performance and which could and should have been fully performed before such occurrence shall be excused as a result of such occurrence.

ARTICLE XVII: LAND RIGHTS

17.1 Seller to Provide Access - Seller hereby grants to Idaho Power for the term of this Agreement all necessary rights-of-way and easements to install, operate, maintain, replace, and remove Idaho Power's Metering Equipment, Interconnection Equipment, Disconnection Equipment, Protection Equipment and other Special Facilities necessary or useful to this Agreement, including adequate and continuing access rights on property of Seller. Seller warrants that it has procured sufficient easements and rights-of-way from third parties so as to provide Idaho Power with the access described above. All documents granting such easements or rights-of-way shall be subject to

Idaho Power's approval and in recordable form.

- 17.2 Use of Public Rights-of-Way - The Parties agree that it is necessary to avoid the adverse environmental and operating impacts that would occur as a result of duplicate electric lines being constructed in close proximity. Therefore, subject to Idaho Power's compliance with paragraph 17.4, Seller agrees that should Seller seek and receive from any local, state or federal governmental body the right to erect, construct and maintain Seller-furnished Interconnection Facilities upon, along and over any and all public roads, streets and highways, then the use by Seller of such public right-of-way shall be subordinate to any future use by Idaho Power of such public right-of-way for construction and/or maintenance of electric distribution and transmission facilities and Idaho Power may claim use of such public right-of-way for such purposes at any time. Except as required by paragraph 17.4, Idaho Power shall not be required to compensate Seller for exercising its rights under this paragraph 17.2.
- 17.3 Joint Use of Facilities - Subject to Idaho Power's compliance with paragraph 17.4, Idaho Power may use and attach its distribution and/or transmission facilities to Seller's Interconnection Facilities, may reconstruct Seller's Interconnection Facilities to accommodate Idaho Power's usage or Idaho Power may construct its own distribution or transmission facilities along, over and above any public right-of-way acquired from Seller pursuant to paragraph 17.2, attaching Seller's Interconnection Facilities to such newly constructed facilities. Except as required by paragraph 17.4, Idaho Power shall not be required to compensate Seller for exercising its rights under this paragraph 17.3.
- 17.4 Conditions of Use - It is the intention of the Parties that the Seller be left in substantially the same condition, both financially and electrically, as Seller existed prior to Idaho Power's exercising its rights under this Article XVII. Therefore, the Parties agree that the exercise by Idaho Power of any of the rights enumerated in paragraphs 17.2 and 17.3 shall: (1) comply with all applicable laws, codes and Prudent Electrical Practices, (2) equitably share the costs of installing, owning and operating jointly used facilities and rights-of-way. If the Parties are unable to agree on the method of apportioning these costs, the dispute will be submitted to the Commission for

resolution and the decision of the Commission will be binding on the Parties, and (3) shall provide Seller with an interconnection to Idaho Power's system of equal capacity and durability as existed prior to Idaho Power exercising its rights under this Article XVII.

ARTICLE XVIII: LIABILITY; DEDICATION

- 18.1 Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public or affect the status of Idaho Power as an independent public utility corporation or Seller as an independent individual or entity.

ARTICLE XIX: SEVERAL OBLIGATIONS

- 19.1 Except where specifically stated in this Agreement to be otherwise, the duties, obligations and liabilities of the Parties are intended to be several and not joint or collective. Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or impose a trust or partnership duty, obligation or liability on or with regard to either Party. Each Party shall be individually and severally liable for its own obligations under this Agreement.

ARTICLE XX: WAIVER

- 20.1 Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or other matter.

ARTICLE XXI: CHOICE OF LAWS AND VENUE

- 21.1 This Agreement shall be construed and interpreted in accordance with the laws of the State of Idaho without reference to its choice of law provisions.
- 21.2 Venue for any litigation arising out of or related to this Agreement will lie in the District Court of

the Fourth Judicial District of Idaho in and for the County of Ada.

ARTICLE XXII: DISPUTES AND DEFAULT

22.1 Disputes - All disputes related to or arising under this Agreement, including, but not limited to, the interpretation of the terms and conditions of this Agreement, will be submitted to the Commission for resolution.

22.2 Notice of Default -

22.2.1 Defaults. If either Party fails to perform any of the terms or conditions of this Agreement (an "event of default"), the nondefaulting Party shall cause notice in writing to be given to the defaulting Party, specifying the manner in which such default occurred. If the defaulting Party shall fail to cure such default within the sixty (60) days after service of such notice, or if the defaulting Party reasonably demonstrates to the other Party that the default can be cured within a commercially reasonable time but not within such sixty (60) day period and then fails to diligently pursue such cure, then, the nondefaulting Party may, at its option, terminate this Agreement and/or pursue its legal or equitable remedies.

22.2.2 Material Breaches – The notice and cure provisions in paragraph 22.2.1 do not apply to defaults identified in this Agreement as Material Breaches. Material Breaches must be cured as expeditiously as possible following occurrence of the breach.

22.3 Security for Performance - Prior to the Operation Date and thereafter for the full term of this Agreement, Seller will provide Idaho Power with the following:

22.3.1 Insurance - Evidence of compliance with the provisions of paragraph 15.2. If Seller fails to comply, such failure will be a Material Breach and may only be cured by Seller supplying evidence that the required insurance coverage has been replaced or reinstated;

22.3.2 Engineer's Certifications - Every three (3) years after the Operation Date, Seller will supply Idaho Power with a Certification of Ongoing Operations and Maintenance (O

& M) from a Registered Professional Engineer licensed in the State of Idaho, which Certification of Ongoing O & M shall be in the form specified in Appendix C. Seller's failure to supply the required certificate will be an event of default. Such a default may only be cured by Seller providing the required certificate; and

22.3.3 Licenses and Permits - During the full term of this Agreement, Seller shall maintain compliance with all permits and licenses described in paragraph 4.1.1 of this Agreement. In addition, Seller will supply Idaho Power with copies of any new or additional permits or licenses. At least every fifth Contract Year, Seller will update the documentation described in Paragraph 4.1.1. If at any time Seller fails to maintain compliance with the permits and licenses described in paragraph 4.1.1 or to provide the documentation required by this paragraph, such failure will be an event of default and may only be cured by Seller submitting to Idaho Power evidence of compliance from the permitting agency.

ARTICLE XXIII: GOVERNMENTAL AUTHORIZATION

23.1 This Agreement is subject to the jurisdiction of those governmental agencies having control over either Party of this Agreement.

ARTICLE XXIV: COMMISSION ORDER

24.1 This Agreement shall become finally effective upon the Commission's approval of all terms and provisions hereof without change or condition and declaration that all payments to be made to Seller hereunder shall be allowed as prudently incurred expenses for ratemaking purposes.

ARTICLE XXV: SUCCESSORS AND ASSIGNS

25.1 This Agreement and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties hereto, except that no assignment hereof by either Party shall become effective without the written consent of both Parties being

first obtained. Such consent shall not be unreasonably withheld. Notwithstanding the foregoing, any party which Idaho Power may consolidate, or into which it may merge, or to which it may convey or transfer substantially all of its electric utility assets, shall automatically, without further act, and without need of consent or approval by the Seller, succeed to all of Idaho Power's rights, obligations and interests under this Agreement. This article shall not prevent a financing entity with recorded or secured rights from exercising all rights and remedies available to it under law or contract. Idaho Power shall have the right to be notified by the financing entity that it is exercising such rights or remedies.

ARTICLE XXVI: MODIFICATION

- 26.1 No modification to this Agreement shall be valid unless it is in writing and signed by both Parties and subsequently approved by the Commission.

ARTICLE XXVII: TAXES

- 27.1 Each Party shall pay before delinquency all taxes and other governmental charges which, if failed to be paid when due, could result in a lien upon the Facility or the Interconnection Facilities.

ARTICLE XXVIII: NOTICES

- 28.1 All written notices under this agreement shall be directed as follows and shall be considered delivered when deposited in the U. S. Mail, first-class postage prepaid, as follows:

To Seller: Lava Beds Wind Park, LLC
 Attn: James T. Carkulis
 515 N 27th Street
 P.O. Box 7218
 Boise, Idaho 83702

To Idaho Power:

Original document to:

Vice President, Power Supply
Idaho Power Company
P O Box 70
Boise, Idaho 83707

Copy of document to:

Cogeneration and Small Power Production
Idaho Power Company
P O Box 70
Boise, Idaho 83707

ARTICLE XXIX: ADDITIONAL TERMS AND CONDITIONS

29.1 This Agreement includes the following appendices, which are attached hereto and included by reference:

Appendix A	-	Generation Scheduling and Reporting
Appendix B	-	Facility and Point of Delivery
Appendix C	-	Engineer's Certifications

ARTICLE XXX: SEVERABILITY

30.1 The invalidity or unenforceability of any term or provision of this Agreement shall not affect the validity or enforceability of any other terms or provisions and this Agreement shall be construed in all other respects as if the invalid or unenforceable term or provision were omitted.

ARTICLE XXXI: COUNTERPARTS

31.1 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

ARTICLE XXXII: ENTIRE AGREEMENT

32.1 This Agreement constitutes the entire Agreement of the Parties concerning the subject matter

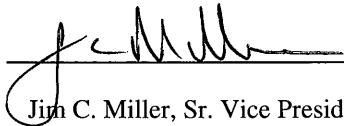
hereof and supersedes all prior or contemporaneous oral or written agreements between the Parties concerning the subject matter hereof.

IN WITNESS WHEREOF, The Parties hereto have caused this Agreement to be executed in their respective names on the dates set forth below:

Idaho Power Company


Lava Beds Wind Park L.L.C.

By



Jim C. Miller, Sr. Vice President, Power Supply

By



James T. Carkulis

Dated

10/11/05

"Idaho Power"

Dated

10/11/05

"Seller"

APPENDIX A

A -1 MONTHLY POWER PRODUCTION AND SWITCHING REPORT

At the end of each month the following required documentation will be submitted to:

Idaho Power Company
Attn: Cogeneration and Small Power Production
P O Box 70
Boise, Idaho 83707

The Meter readings required on this report will be the reading on the Idaho Power Meter Equipment measuring the Facility's total energy production, Station Usage, Inadvertent Energy delivered to Idaho Power and the maximum generated energy (kW) as recorded on the Meter Equipment and/or any other required energy measurements to adequately administer this Agreement.

Idaho Power Company

Cogeneration and Small Power Production

MONTHLY POWER PRODUCTION AND SWITCHING REPORT

Month _____ Year _____

Project Name _____ Project Number: _____
 Address _____ Phone Number: _____
 City _____ State _____ Zip _____

	<u>Facility Output</u>	<u>Station Usage</u>	<u>Station Usage</u>	<u>Metered Maximum Generation</u>
Meter Number: _____	_____	_____	_____	kW
End of Month kWh Meter Reading: _____	_____	_____	_____	
Beginning of Month kWh Meter: _____	_____	_____	_____	
Difference: _____	_____	_____	_____	
Times Meter Constant: _____	_____	_____	_____	<u>Net Generation</u>
kWh for the Month: _____	-	-	=	
Metered Demand: _____	_____	_____	_____	

Breaker Opening Record

<u>Date</u>	<u>Time</u>	<u>Meter</u>

* <u>Reason</u>

Breaker Closing Record

<u>Date</u>	<u>Time</u>	<u>Meter</u>

- * **Breaker Opening Reason Codes**
- 1 Lack of Adequate Prime Mover
 - 2 Forced Outage of Facility
 - 3 Disturbance of IPCo System
 - 4 Scheduled Maintenance
 - 5 Testing of Protection Systems
 - 6 Cause Unknown
 - 7 Other (Explain)

I hereby certify that the above meter readings are true and correct as of Midnight on the last day of the above month and that the switching record is accurate and complete as required by the Firm Energy Sales Agreement to which I am a Party.

Signature Date

A-2 ROUTINE REPORTING

Idaho Power Contact Information

Daily Energy Production Reporting

Call daily by 10 a.m., 1-800-356-4328 or 1-800-635-1093 and leave the following information:

- Project Identification - Project Name and Project Number
- Current Meter Reading
- Estimated Generation for the current day
- Estimated Generation for the next day

Planned and Unplanned Project outages

Call 1-800-345-1319 and leave the following information:

- Project Identification - Project Name and Project Number
- Approximate time outage occurred
- Estimated day and time of project coming back online

Seller's Contact Information

24-Hour Project Operational Contact

Name: _____
Telephone Number: _____
Cell Phone: _____

Project On-site Contact information

Telephone Number: _____

APPENDIX B

FACILITY AND POINT OF DELIVERY

PROJECT NO. 41455200

LAVA BEDS WIND PARK

B-1 DESCRIPTION OF FACILITY

The Facility will consist of 12 Wind turbines; model 77 GE SLE with individual generator ratings of 1.5 MW for each unit, for a total Facility generator rating of 18.0 MW.

B-2 LOCATION OF FACILITY

Near:

Sections: 2, 3 Township: T2S Range: R32E County: Bingham Idaho.

B-3 SCHEDULED FIRST ENERGY AND OPERATION DATE

Seller has selected November 1, 2006 as the estimated Scheduled First Energy Date.

Seller has selected May 1, 2007 as the estimated Scheduled Operation Date.

In making these selections, Seller recognizes that adequate testing of the Facility and completion of all requirements in paragraph 5.2 of this Agreement must be completed prior to the project being granted an Operation Date. Idaho Power, based on the information supplied by the Seller, will schedule its construction in accordance with Schedule 72 and the Generation Interconnection Process.

B-4 MAXIMUM CAPACITY AMOUNT: This value will be 19.2 MW which is consistent with the value provided by the Seller to Idaho Power in the Generation Interconnection process. This value is the maximum energy (MW) that potentially could be delivered by the Seller's Facility to the Idaho Power electrical system at any moment in time.

B-5 POINT OF DELIVERY

“Point of Delivery” means, unless otherwise agreed by both Parties, the point of where the Sellers Facility’s energy is delivered to the Idaho Power electrical system. The Idaho Power Generation Interconnection process will determine the specific Point of Delivery for this Facility. Upon completion of the Generation Interconnection process the Point of Delivery identified by this process will become an integral part of this Agreement.

B-6 LOSSES

If the Idaho Power Metering equipment is capable of measuring the exact energy deliveries by the Seller to the Idaho Power electrical system at the Point of Delivery, no Losses will be calculated for this Facility. If the Idaho Power Metering is unable to measure the exact energy deliveries by the Seller to the Idaho Power electrical system at the Point of Delivery, a Losses calculation will be established to measure the energy losses (kWh) between the Seller’s Facility and the Idaho Power Point of Delivery. This loss calculation will be initially set at 2% of the kWh energy production recorded on the Facility generation metering equipment. At such time as Seller provides Idaho Power with the electrical equipment specifications (transformer loss specifications, conductor sizes, etc) of all of the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power will configure a revised loss calculation formula to be agreed to by both parties and used to calculate the kWh Losses for the remaining term of the Agreement. If at anytime during the term of this Agreement, Idaho Power determines that the loss calculation does not correctly reflect the actual kWh losses attributed to the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power may adjust the calculation and retroactively adjust the previous months kWh loss calculations.

B-7 METERING AND TELEMETRY

The Idaho Power Generation Interconnection process will determine the specific metering and telemetry requirements for this Facility. At the minimum the Metering Equipment and Telemetry

equipment must be able to provide and record hourly energy deliveries to the Point of Delivery and any other energy measurements required to administer this Agreement. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Seller will arrange for and make available at Seller's cost communication circuit(s) compatible to Idaho Power's communications equipment and dedicated to Idaho Power's use terminating at the Idaho Power facilities capable of providing Idaho Power with continuous instantaneous information on the Facilities energy production. Idaho Power provided equipment will be owned and maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total metering cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

B-7 SPECIAL FACILITIES

The Idaho Power Generation Interconnection process will determine the Special Facility requirements for this Facility. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Idaho Power owned equipment will be maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total Special Facility cost will be included in the calculation of the Monthly Operation and

Maintenance Charges specified in Schedule 72.

B-8 REACTIVE POWER

The Idaho Power Generation Interconnection process will determine the reactive power required to be supplied by Idaho Power to the Seller, based upon information provided by the Seller. The Generation Interconnection process will specify the equipment required on the Idaho Power system to meet the Facility's reactive power requirements. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Idaho Power owned equipment will be maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total reactive power cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

B-9 DISCONNECTION EQUIPMENT

Disconnection Equipment is required to insure that the Seller's Facility will be disconnected from Idaho Power's system in the event of (1) the Seller's delivery of energy exceeds the Maximum Capacity Amount or (2) Idaho Power or the Seller require interruption or curtailment of energy deliveries to Idaho Power or (3) a disturbance on either Idaho Power's system or the Seller's Facility. The Idaho Power Generation Interconnection process will determine the Disconnection Equipment specifications and requirements for this Facility, this equipment is for protection of the Idaho Power system and equipment only. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller

provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. Seller will install all Seller provided equipment, control wire and conduit necessary for the operation of the Disconnection Equipment. Through the Generation Interconnection process, Idaho Power will supply details for the disconnection panel and will test the equipment prior to any operations of the Facility, Seller will provide drawings of their interconnection wiring for engineering approval prior to installation. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Idaho Power owned equipment will be maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total Disconnection Equipment cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

B-10 COSTS

The Idaho Power Generation Interconnection process and this Agreement will identify all cost for this Facility to interconnect to the Idaho Power system, including but not limited to the cost of Metering equipment, Telemetry equipment, Special Facilities, Reactive Power, Disconnection equipment, Protection equipment and Interconnection Equipment. As specified in the Generation Interconnection process and in accordance with Schedule 72 and this Agreement the Seller will reimburse Idaho Power for all costs associated with this equipment. In addition to the equipment, installation and construction charges as specified above, during the term of this Agreement, Seller will pay Idaho Power the monthly operation and maintenance charge specified in Schedule 72 or its successor schedules(s). The monthly operations and maintenance charge will begin on the first day of the month following the date which Idaho Power has completed installation of the Idaho Power provided equipment and the interconnection equipment is available for use by the Facility. The monthly operations and maintenance charge will be based upon the initial cost paid

by the Seller in accordance with Schedule 72. Upon reconciliation of the actual costs, in accordance with Schedule 72 the monthly operations and maintenance charge will be adjusted to reflect the actual cost incurred by Idaho Power and previously charged monthly operation and maintenance expense will be revised to reflect the actual cost incurred by Idaho Power. Idaho Power will refund or Seller will remit any underpayment of the adjusted monthly operations and maintenance charge within sixty (60) days of the determination of this amount.

B-11 SALVAGE

No later than sixty (60) days after the termination or expiration of this Agreement, Idaho Power will prepare and forward to Seller an estimate of the remaining value of those Idaho Power furnished Interconnection Facilities as required under Schedule 72, the Generation Interconnection Process and/or described in this Agreement, less the cost of removal and transfer to Idaho Power's nearest warehouse, if the Interconnection Facilities will be removed. If Seller elects not to obtain ownership of the Interconnection Facilities but instead wishes that Idaho Power reimburse the Seller for said Facilities the Seller may invoice Idaho Power for the net salvage value as estimated by Idaho Power and Idaho Power shall pay such amount to Seller within thirty (30) days after receipt of the invoice. Seller shall have the right to offset the invoice amount against any present or future payments due Idaho Power.

APPENDIX C

ENGINEER'S CERTIFICATION

OF

OPERATIONS & MAINTENANCE POLICY

The undersigned _____, on behalf of himself and _____, hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter "Agreement," between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as IPCo Facility No. _____ and is hereinafter referred to as the "Project."
4. That the Project, which is commonly known as the _____, is located in Section ____ Township _____, Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a twenty (20) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has reviewed and/or supervised the review of the Policy for Operation and Maintenance ("O&M") for this Project and it is his professional opinion that, provided said Project has been designed and built to appropriate standards, adherence to said O&M Policy will result in the

Project's producing at or near the design electrical output, efficiency and plant factor for a twenty (20) year period.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.

10. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____

(P.E. Stamp)

Date _____

APPENDIX C

ENGINEER'S CERTIFICATION

OF

ONGOING OPERATIONS AND MAINTENANCE

The undersigned _____, on behalf of himself and _____ hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter "Agreement," between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as IPCo Facility No. _____ and hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the _____ Project, is located at _____.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a twenty (20) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has made a physical inspection of said Project, its operations and maintenance records since the last previous certified inspection. It is Engineer's professional opinion, based on the Project's appearance, that its ongoing O&M has been substantially in accordance with said O&M Policy; that it is in reasonably good operating condition; and that if adherence to said O&M Policy continues, the Project will continue producing at or near its design electrical output, efficiency and plant factor for the remaining _____ years of the Agreement.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.

10. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____

(P.E. Stamp)

Date _____

APPENDIX C
ENGINEER'S CERTIFICATION
OF
DESIGN & CONSTRUCTION ADEQUACY

The undersigned _____, on behalf of himself and _____, hereinafter collectively referred to as "Engineer", hereby states and certifies to Idaho Power as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Firm Energy Sales Agreement, hereinafter "Agreement", between Idaho Power as Buyer, and _____ as Seller, dated _____, _____.
3. That the cogeneration or small power production project, which is the subject of the Agreement and this Statement, is identified as IPCo Facility No _____ and is hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the _____ Project, is located in Section _____, Township _____, Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a _____ (____) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project and has made the analysis of the plans and specifications independently.
8. That Engineer has reviewed the engineering design and construction of the Project, including the civil work, electrical work, generating equipment, prime mover conveyance system, Seller furnished Interconnection Facilities and other Project facilities and equipment.

9. That the Project has been constructed in accordance with said plans and specifications, all applicable codes and consistent with Prudent Electrical Practices as that term is described in the Agreement.

10. That the design and construction of the Project is such that with reasonable and prudent operation and maintenance practices by Seller, the Project is capable of performing in accordance with the terms of the Agreement and with Prudent Electrical Practices for a _____ (_____) year period.

11. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, in interconnecting the Project with its system, is relying on Engineer's representations and opinions contained in this Statement.

12. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____
(P.E. Stamp)

Date _____

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR) CASE NO. IPC-E-05-31
APPROVAL OF A FIRM ENERGY SALES)
AGREEMENT FOR THE SALE AND)
PURCHASE OF ELECTRIC ENERGY) ORDER NO. 29949
BETWEEN IDAHO POWER COMPANY)
AND LAVA BEDS WIND PARK LLC)**

On October 20, 2005, Idaho Power Company (Idaho Power; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting approval of a 20-year Firm Energy Sales Agreement (Agreement) between Idaho Power and Lava Beds Wind Park LLC (Lava Beds) dated October 14, 2005. Under the Agreement, Lava Beds will sell and Idaho Power will purchase electric energy generated by Lava Beds, a project located near Taber, Idaho, which is between Blackfoot and Atomic City, Idaho, in an area more particularly described as Sections 2 and 3, Township 2 S, Range 32 E, Boise Meridian, Bingham County, Idaho. The project will consist of twelve (12) 1.5 MW GE wind turbines. The nameplate rating of the project is 18.0 MW. Under normal and/or average conditions, the project will not exceed 10 aMW on a monthly basis. If energy in excess of this amount (Inadvertent Energy) is accidentally generated, Idaho Power will accept Inadvertent Energy that does not exceed the 19.2 MW Maximum Capacity Amount, but will not purchase or pay for it. Agreement ¶ 7.3.2; Appendix B-4.

The Lava Beds project will be a qualified small power production facility (QF) under the applicable provisions of the Public Utility Regulatory Policies Act of 1978 (PURPA). As represented by Idaho Power, the Agreement comports with the terms and conditions of Commission Order No. 29632 (*U.S. Geothermal et al v. Idaho Power*), avoided cost Order No. 29646 and Commission Order Nos. 29839, 29851 and 29872 in Case No. IPC-E-05-22. The Agreement is for a 20-year term and contains the non-levelized published avoided cost rates set forth in Order No. 29646.

In interlocutory Order No. 29839 issued in Case No. IPC-E-05-22 the Commission reduced the size cap for QF wind generation facilities entitled to receive the published avoided cost rates from 10 aMW to 100 kW. In its Order, the Commission further identified several

criteria that it would consider to determine whether a particular QF wind generation facility in the negotiation queue was sufficiently mature so as to justify “grandfathering” the project to entitlement to the published rates. These criteria are as follows:

- (1) Submittal of a signed power purchase agreement to the utility, or
- (2) Submittal to the utility of a completed Application for Interconnection Study and payment of fee.

In addition to a finding of existence of one or both of the preceding threshold criteria, the QF must also be able to demonstrate other indicia of substantial progress and project maturity, e.g.,

- (1) A wind study demonstrating a viable site for the project,
- (2) A signed contract for wind turbines,
- (3) Arranged financing for the project, and/or
- (4) Related progress on the facility permitting and licensing path.

Order No. 29839, p. 10, August 4, 2005; final Order No. 29851. In reconsideration Order No. 29872 issued on September 21, 2005 in the same case, the Commission reaffirmed the grandfathering criteria and changed the “grandfathering” eligibility deadline from the previously-ordered July 1, 2005, to August 4, 2005, the date of interlocutory Order No. 29839.

Considering and weighing all of the Commission-identified criteria, Idaho Power believes that the Lava Beds project is sufficiently far enough along the development path that it should be “grandfathered” to the published rates. Lava Beds has selected November 2006 as the scheduled first energy date and May 2007 as the scheduled operation date.

As reflected in Agreement Section 24, the Agreement will not become effective until the Commission has approved all the Agreement’s terms and conditions and declares that all payments that Idaho Power makes to Lava Beds for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.

On November 7, 2005, the Commission issued a Notice of Application and Modified Procedure in Case No. IPC-E-05-31. The deadline for filing written comments was November 28, 2005. Comments were filed by Commission Staff and Windland Incorporated. Staff has reviewed the submitted Agreement and finds that it comports with the terms and conditions of Commission Order No. 29632 (*U.S. Geothermal, et al. v. Idaho Power*), avoided cost Order No. 29646 and Commission Order Nos. 29839, 29851 and 29872 in Case No. IPC-E-05-22. The Agreement is for a 20-year term and contains the non-levelized published avoided cost rates set

forth in Order No. 29646. Staff recommends approval of the Agreement with an effective date of October 14, 2005.

Windland Incorporated expresses concern that the presence of “signed but not yet built” wind PURPA contracts limits Idaho Power Company’s options to procure other wind energy resources. If projects are approved but not built on schedule, Windland contends that there is a significant financial risk to Idaho ratepayers. Windland contends that Exergy Development Group has been late meeting target dates for three approved projects to date. The United Materials Horseshoe Bend Wind Park project near Great Falls, Montana is now almost a year late in meeting its scheduled on-line date. The Fossil Gulch project near Hagerman, Idaho is on-line but did not achieve the status by its January 1, 2005 milestone target. The Burley Butte project near Burley, Idaho did not meet its October 30, 2005 first energy date. Windland does not expect the Thousand Springs, Pilgrim Stage, Oregon Trail and Tuana Gulch projects to meet their December 31, 2005 scheduled operation dates. If Exergy fails to bring Lava Beds and three other proposed projects on-line by the scheduled May 2007 date, Windland contends that it will be too late for Idaho Power to procure alternate wind resources from another source before the federal production tax credit expires at the end of 2007. Reference Milner Dam (IPC-E-05-30), Notch Butte (IPC-E-05-32), and Salmon Falls (IPC-E-05-33). Windland requests that the Commission examine the totality of facts associated with these four contracts and only approve them if Exergy provides adequate assurances that the projects will be timely built.

Exergy by way of reply contends that Windland raises issues of generic applicability to PURPA contracts relative to penalties or damage calculations for delay in achieving the first operation date for QF projects. Exergy contends that such issues are beyond the scope of the instant proceeding. Exergy further contends that it is black letter law in Idaho that when the Commission makes changes in a utility’s rates or the terms and conditions of service, that such changes may only be made on a prospective basis. *Citing Utah Power & Light v. IPUC*, 107 Idaho 47, 52, 685 P.2d 276 (1984).

Idaho Power in reply comments addresses Exergy contract performance, notes the default provisions of the Agreement and cites prior QF contract policy regarding the inappropriateness of liquidated damage provisions in small QF published rate contracts. Idaho Power contends that the Lava Beds project satisfies the Commission’s grandfathering eligibility criteria and requests that the Commission approve the Firm Energy Sales Agreement. Idaho

Power agrees that the template contract the Company currently utilizes for small QF published rate contracts provides essentially a “free option” to the QF developer to sign a contract, lock-in a rate, and then go see if it can actually put together a project. Windland is correct in its assessment, the Company concurs, that should multiple QF projects entitled to the published rates fail to meet the scheduled operation dates, the collective impact could adversely affect the Company’s resource planning process. Should the Commission find the performance and liquidated damage issues raised by Windland to be worthy of further consideration, Idaho Power contends that the suggested changes are appropriate only for prospective application and recommends that the appropriate procedure would be to open a separate docket.

COMMISSION FINDINGS

The Commission has reviewed and considered the filings of record in Case No. IPC-E-05-31, including the underlying Agreement, the comments and recommendations of Commission Staff and Windland Incorporated, and the reply comments of Exergy and Idaho Power. We have also reviewed public comments filed in support of the project.

The Commission Staff recommends that the Lava Beds Agreement be approved. Windland Incorporated recommends that the Commission require adequate assurances from the developer that the project will be timely built. Idaho Power notes the default provisions of the Agreement and suggests that the generic performance and liquidated damage issues raised by Windland be addressed, if at all, in a separate docket for prospective application in future contracts.

The Commission has considered the concerns raised by Windland regarding the ramifications of an approved QF project failing to come on-line. While the identified risks exist, we find the risk to be small. There is always a risk that QF projects will not come on-line at the time projected. In addition, prices of resources are always changing. The Company’s planning process is flexible enough to accommodate the risk associated with small QF projects. We have no developed record of upfront project failure to justify the imposition of a performance bond requirement assuring that small projects qualifying for published rates will be timely built. Until the facts are demonstrated to be otherwise we do not find a performance bond requirement in this case or an investigation to be warranted.

Idaho Power has presented a Firm Energy Sales Agreement with Lava Beds for Commission consideration and approval. The nameplate rating of the wind facility is 18.0 MW.

The contract is for a 20-year term and contains non-levelized published avoided cost rates for energy deliveries not exceeding 10 aMW on a monthly basis. The Commission finds that the Agreement submitted in this case contains acceptable contract provisions and comports with the terms and conditions of Order Nos. 29632 and 29682 in Case Nos. IPC-E-04-8; 04-10. The Commission finds that the project satisfies the grandfathering eligibility criteria established in Order Nos. 29839 and 29872 in Case No. IPC-E-05-22.

The Commission finds it reasonable that the submitted Agreement be approved without further notice or procedure. IDAPA 31.01.01.204. We further find it reasonable to allow payments made under the Agreement as prudently incurred expenses for ratemaking purposes.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over Idaho Power Company, an electric utility, pursuant to the authority and power granted it under Title 61 of the Idaho Code and the Public Utility Regulatory Policies Act of 1978 (PURPA).

The Commission has authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed term obligations for the purchase of energy from qualified facilities and to implement FERC rules.

ORDER

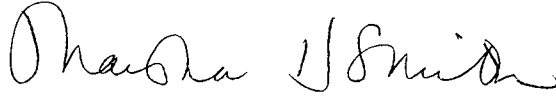
In consideration of the foregoing, IT IS HEREBY ORDERED and the Commission does hereby approve the October 14, 2005 Firm Energy Sales Agreement between Idaho Power Company and Lava Beds Wind Park, LLC.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 10th
day of January 2006.



PAUL KJELLANDER, PRESIDENT



MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

bls/O:IPC-E-05-31_sw

Exhibit 3



IDAHO POWER COMPANY
P.O. BOX 70
BOISE, IDAHO 83707

BARTON L. KLINE
Senior Attorney

October 20, 2005

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington Street
P. O. Box 83720
Boise, Idaho 83720-0074

Re: Case No. IPC-E-05-32
Application For Approval of Firm Energy Sales Agreement
Between Idaho Power and Notch Butte Wind Park LLC

Dear Ms. Jewell:

Please find enclosed for filing an original and seven (7) copies of Idaho Power Company's Application For Approval of A Firm Energy Sales Agreement for the Sale and Purchase of Electric Energy Between Idaho Power Company and Notch Butte Park LLC.

I would appreciate it if you would return a stamped copy of this transmittal letter in the enclosed self-addressed, stamped envelope.

Very truly yours,

Barton L. Kline

BLK:jb
Enclosures

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IDAHO PUBLIC
UTILITIES COMMISSION

BARTON L. KLINE, ISB # 1526
MONICA B. MOEN, ISB # 5734
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IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for Idaho Power Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)
IDAHO POWER COMPANY FOR APPROVAL)
OF A FIRM ENERGY SALES AGREEMENT)
FOR THE SALE AND PURCHASE OF)
ELECTRIC ENERGY BETWEEN IDAHO)
POWER COMPANY AND NOTCH BUTTE)
WIND PARK LLC)
_____)

CASE NO. IPC-E-05-32

APPLICATION

COMES NOW, Idaho Power Company ("Idaho Power" or "the Company")
and, pursuant to RP 52, hereby requests that the Commission issue its Order approving
a Firm Energy Sales Agreement between Idaho Power and Notch Butte Wind Park LLC
("Notch Butte") under which Notch Butte would sell and Idaho Power would purchase
electric energy generated by the Notch Butte Wind Generating Facility located near
Notch Butte which is between Twin Falls and Shoshone Idaho ("Facility").

This Application is based on the following:

I.

Notch Butte represents that the Facility will be a 18 MW wind generating facility that will be a qualified small power production facility under the applicable provisions of the Public Utility Regulatory Policies Act of 1978 ("PURPA").

II.

On October 14, 2005, Idaho Power and Notch Butte entered into a Firm Energy Sales Agreement ("Agreement") pursuant to the terms and conditions of Commission Order Nos. 29632, 29646, 29839, 29851 and 29872. Under the terms of the Agreement, Notch Butte elected to contract with Idaho Power for a twenty-year term. Notch Butte further elected to contract with the Company using the non-levelized published avoided cost rates as currently established by the Commission for projects that, under normal operating conditions, will not generate more than 10 aMW on a monthly basis.

III.

The Agreement is similar in virtually all respects to several recent PURPA agreements entered into by Idaho Power and approved by the Commission (i.e., Pilgrim Stage Station Wind Park, IPUC Order No. 29771; Oregon Trails Wind Park, IPUC Order No. 29772). The Agreement contains terms and conditions previously approved by the Commission in reviewing other PURPA agreements and is consistent with Order No. 29632 in Case No. IPC-E-04-8 (U.S. Geothermal Complaint).

IV.

The nameplate rating of the Facility is expected to be 18 MW. As provided by the Agreement, Notch Butte will be required to provide data on the Facility that Idaho Power will use to confirm that, under normal and/or average conditions, generation from the Facility will not exceed 10 aMW on a monthly basis.

V.

In Order No. 29839 issued in Case No. IPC-E-05-22, the Commission ordered that the size cap for QF wind generation facilities entitled to receive the published avoided cost rates be reduced from 10 aMW to 100 kW. In Order No. 29839, the Commission identified several criteria that the Commission would consider to determine whether a particular QF wind generation facility was sufficiently mature so as to justify "grandfathering" the project to entitlement to the published rates. In Order No. 29872 issued on September 21, 2005 in the same case, the Commission addressed several motions for reconsideration of Order No. 29851 and specified that the deadline for "grandfathering" would be changed from the previously-ordered July 1, 2005, until August 4, 2005, the date of interlocutory Order No. 29839. In Order No. 29872, the Commission confirmed the criteria it would consider for determining eligibility to the published rates for those QFs in the negotiation queue on August 4, 2005. These criteria are as follows:

- (1) submittal of a signed power purchase agreement to the utility, or
- (2) submittal to the utility of a completed Application for Interconnection Study and payment of fee.

In addition to a finding of existence of one or both of the preceding threshold criteria, the QF must also be able to demonstrate other indicia of substantial progress and project maturity, e.g.,

- (1) a wind study demonstrating a viable site for the project,
- (2) a signed contract for wind turbines,
- (3) arranged financing for the project, and/or
- (4) related progress on the facility permitting and licensing path.

(Order No. 29839, p. 10, August 4, 2005)

VI.

In order to comply with the Commission's order regarding grandfathering, Idaho Power identified 14 wind generating project developers that had contacted Idaho Power regarding a potential wind QF project. By letter dated August 8, 2005, the Company requested that each of the identified QF developers provide Idaho Power information regarding their project that the Company could use to determine whether or not the particular wind QF would meet the criteria for grandfathering described by the Commission. A copy of the letter sent to Notch Butte is enclosed as Attachment 1. In response to Attachment 1, Notch Butte provided responses to each of the items identified in Attachment 1. A summary of Notch Butte's responses is enclosed as Attachment 2.

As noted in Attachment 2, several of Notch Butte's responses indicated that Notch Butte was concerned about the confidentiality of documents. Therefore, rather than requiring copies of the documents be provided, Idaho Power reviewed the documents in Notch Butte's office to confirm that the documents supported Notch Butte's representations.

VII.

While Idaho Power reviewed Notch Butte's compliance with all of the criteria identified in Attachment 1, the Company does not expect that a QF must have *completed* all of the criteria to be entitled to grandfather status. The relative weight given to completion of each criterion must be considered on its own merits. For example, one criterion that Idaho Power identified as being entitled to great weight is a signed contract for wind turbines. Based on discussions with QF wind developers and other publicly available information, Idaho Power has determined that the supply of wind turbines is extremely tight and, if a turbine has not been procured, it may be many months before turbines are available. Therefore, possession of a contract that binds a wind turbine manufacturer to deliver the needed wind turbines to the QF within the time periods specified by the QF developer was deemed by Idaho Power to be critical to a determination that a QF was sufficiently mature so as to qualify for grandfathering. The Notch Butte project has entered into such a contract and Idaho Power has reviewed the contract documents binding the wind turbine manufacturer.

VIII.

Considering and weighing all of the Commission-identified criteria, Idaho Power believes that Notch Butte is sufficiently far enough along the development path that it should be "grandfathered" to the published rates.

IX.

Notch Butte has selected November 2006 as the scheduled first energy date and May 2007 as the scheduled operation date for the project. As the Agreement specifies, once a project requests and is assigned an operation date, various terms of

the Agreement are activated, primarily the 90%/110% performance criteria. Prior to the operation date, the Agreement requires that only the monthly variable non-firm price for energy be paid for the energy production from this project. Based on past experience, the Notch Butte developer has determined that it typically takes a few months to fine tune the turbines at each specific project; therefore, the developer has allowed for this fine tuning time frame in the scheduled first energy and schedule operation date. In the Agreement, various requirements have been placed on Notch Butte in order for Idaho Power to accept deliveries from this Facility. Idaho Power will monitor compliance with these initial requirements. In addition, Idaho Power will continue to monitor the ongoing requirements through the full term of this Agreement.

X.

Section 22 of the Agreement provides that the Agreement will not become effective until the Commission has approved all of the agreements, terms and conditions and determined that all payments that Idaho Power will make to Notch Butte for purchases of energy under the Agreement will be allowed as prudently incurred expenses for ratemaking purposes.

XI.

The Agreement, as signed and submitted by the parties hereto, contains non-levelized published avoided cost rates in conformity with applicable IPUC Orders and is enclosed as Attachment 3.

XII.

Service of pleadings, exhibits, orders and other documents relating to this proceeding should be served on the following:

Barton L. Kline, Senior Attorney
Monica B. Moen, Attorney II
Idaho Power Company
P.O. Box 70
Boise, Idaho 83707
bkline@idahopower.com
mmoen@idahopower.com

Randy C. Allphin
Contract Administrator
Idaho Power Company
P.O. Box 70
Boise, Idaho 83707
rallphin@idahopower.com

XIII.

NOW, THEREFORE, based on the foregoing, Idaho Power hereby requests that the Commission issue its Order:

- (1) Approving the enclosed Firm Energy Sales Agreement between Idaho Power and Notch Butte without change or condition; and
- (2) Declaring that all payments for purchase of energy under the Agreement will be allowed as prudently incurred expenses for ratemaking purposes.

Respectfully submitted this 20th day of October, 2005.



BARTON L. KLINE
Attorney for Idaho Power Company

ATTACHMENT 1



Randy C. Allphin
Contract Administrator

August 8, 2005

James Carkulis
Exergy Development Group, LLC
P O Box 5212
Helena, MT 59601

E-mail Copy: mtli@in-tch.com

Original: US Mail

RE: Notch Butte Wind Park
Request for a PURPA contract for a proposed Wind Generation Facility.

Dear James:

On June 17, 2005, Idaho Power Company (Company) filed a Petition with the Idaho Public Utilities Commission (Commission) requesting a temporary suspension of the Company's obligation to enter into new contracts to purchase energy generated by qualifying wind-powered small power production facilities (QFs) at the published rates.

On August 4, 2005, the Commission issued Order No. 29839 in response to the Petition filed by Idaho Power Company. In Order No. 29839, the Commission ruled that only intermittent wind generation projects with a nameplate rating of 100 kW or less are eligible for the published avoided cost rates. In this Order the Commission also established criteria to assess the eligibility of larger wind generation projects that had commenced the development process prior to July 1, 2005 to receive PURPA contracts containing the published rates. The eligibility criteria for those larger projects, as set out in Order No. 29839, are as follows:

- 1) Submittal of a signed power purchase agreement to the utility no later than July 1, 2005 or submittal of a completed Application for Interconnection Study and payment of study fees to the utility no later than July 1, 2005.

- 2) In addition to the eligibility criteria set out in item 1, to qualify for the published rates the larger QF must also be able to demonstrate other indicia of substantial progress and project maturity. Examples of these items include but are not limited to:
 - a.) A QF certificate for the project
 - b.) Wind study(s) demonstrating a viable site for the project
 - c.) Project and access road site control
 - d.) A signed contract for the supply of wind turbines
 - e.) Arranged financing for the project
 - f.) Progress on facility permitting and licensing

Our records indicate you contacted Idaho Power concerning a PURPA contract for the Notch Butte Wind Park with an estimated size of 18 MW prior to the issuance of Commission Order No. 29839.

Summarized below are Idaho Power Power Supply's records in regards to the data you have submitted for your proposed wind project and the status of meeting the eligibility criteria as described in Commission Order No. 29839.

Item 1

- a.) Submittal of a signed Purchase Power Agreement

Idaho Power has received a developer originated signed Purchase Power Agreement prior to July 1, 2005.

- b.) Submittal of a completed Application for Interconnection

What is the status of your application for interconnection for your proposed wind project?

While this may seem to be a strange request coming from Idaho Power, Federal Energy Regulatory Commission orders prohibit Idaho Power's Power Supply business unit from obtaining this information directly from the Idaho Power Delivery business unit. Please provide complete interconnection application status information, including when application was made for interconnection and evidence that the required study fees have been paid to Idaho Power Delivery business unit.

- ✓ If your project has submitted one or both of the above-required documents please provide the documentation of the items specified below in Item 2.
- ✓ If neither of the above documents had been submitted to Idaho Power Company prior to July 1, 2005, as specified in the Commission Order, your project is subject to the revised published rate eligibility cap for a qualified intermittent wind projects of 100 kW or smaller.

Item 2

Please provide documentation that demonstrates other indicia of substantial progress and project maturity. Examples of these items include but are not limited to:

- a.) A QF certificate for the project
Idaho Power has on file a copy of your notice of Self Certification dated August 3, 2005.
- b.) Wind study demonstrating a viable site for the project
- c.) Project and access road site control
- d.) A signed contract for the supply of wind turbines
- e.) Arranged financing for the project
- f.) Progress on facility permitting and licensing

If there is other data that you believe indicates that your project was substantially mature or complete as of July 1, 2005, please provide this data at the same time.

Please provide the requested data to Randy Allphin at Idaho Power Company:

US Mail: Idaho Power Company
Attn: Randy Allphin
P O Box 70
Boise, Idaho 83707

Email: Rallphin@idahopower.com

Fax: (208) 433-5163

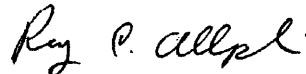
Please mark all Faxes – Attention Randy Allphin and also notify Randy Allphin by e-mail or telephone that a Fax is being sent.

Idaho Power will review the provided data and may request addition information. If it is determined that the project has met the eligibility criteria as established by the Commission, Idaho Power will prepare and provide a draft PURPA agreement for your review. Please note this is not an offer to purchase and no PURPA contract is effective until the Idaho Public Utilities Commission has reviewed it and approved it for ratemaking purposes.

The Commission has set stringent time limits for continued processing of this case. As a result, it is important that we receive your response to this letter no later than **5 PM, Mountain Standard Time, August 15, 2005**. Failure to provide complete information within this time period may mean that your request would not be considered eligible to receive the published rates.

If you have any questions please contact me at your convenience.

Very truly yours,



Randy C. Allphin
Idaho Power Company
Contract Administrator

ATTACHMENT 2

Summary of Compliance Analysis

Notch Butte

18.00 MW

Jerome and Lincoln County

<p>1.) <u>Purchase Power agreement</u> Submittal of a signed power purchase</p> <p style="text-align: center;">And / Or</p> <p><u>Interconnection Application</u> Submittal to the Utility of a completed</p>	<p>Yes, developer provided agreement signed June 17, 2005</p> <p>Yes, 101.5 MW request filed with IPC on Feb 2005. Fees paid and Feasibility Study completed by IPC.</p>
<p>2.) <u>Demonstrate other indicia of substantial progress and project maturity</u></p>	
<p>a. QF Certificate</p>	<p>Filed with FERC 8/3/2005</p>
<p>b. Site Control</p>	<p>8/15/2005 Developer response received, stating all contracts are complete and available for our review upon request.</p> <p>8/23/2005 Company representatives met with developer and reviewed various documents supporting conclusion that adequate site control was in place.</p>
<p>c. Wind Study data</p>	<p>8/15/2005 Developer response received, stating data collected but confidential.</p> <p>8/23/2005 Company representatives met with developer and reviewed various documents indicating wind data had been collected for this project. In addition, the Developer has provided monthly kWh commitments for inclusion in the agreement based upon the c</p>
<p>d. Turbine supply confirmation</p>	<p>8/15/2005 Developer response received, stating all contracts are complete but confidential.</p> <p>8/23/2005 Company representatives met with developer and reviewed the Turbine supply agreement and confirmed that a binding agreement with manufacturer for the supply of turbines is in place for this project.</p>
<p>e. Completed project financing</p>	<p>8/15/2005 Letter received, stating premature to have final financing in place until a PPA is complete. Prior Company experience confirms that ability to obtain firm financial commitments usually require PPA in place. Developer has previously obtained fin</p>
<p>f. Planning and Zoning permit progress</p>	<p>8/15/2005 Letter received, stating initial work begun, but premature to finalize until PPA in place. Company's representatives met with developer and confirmed initial permitting due diligence commenced.</p>

ATTACHMENT 3

FIRM ENERGY SALES AGREEMENT

BETWEEN

IDAHO POWER COMPANY

AND

NOTCH BUTTE WIND PARK LLC

TABLE OF CONTENTS

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IDAHO PUBLIC
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<u>Article</u>	<u>TITLE</u>
1	Definitions
2	No Reliance on Idaho Power
3	Warranties
4	Conditions to Acceptance of Energy
5	Term and Operation Date
6	Purchase and Sale of Net Energy
7	Purchase Price and Method of Payment
8	Environmental Attributes
9	Facility and Interconnection
10	Disconnection Equipment
11	Metering and Telemetry
12	Records
13	Protection
14	Operations
15	Indemnification and Insurance
16	Force Majeure
17	Land Rights
18	Liability; Dedication
19	Several Obligations
20	Waiver
21	Choice of Laws and Venue
22	Disputes and Default
23	Governmental Authorization
24	Commission Order
25	Successors and Assigns
26	Modification
27	Taxes
28	Notices
29	Additional Terms and Conditions
30	Severability
31	Counterparts
32	Entire Agreement Signatures
	Appendix A
	Appendix B
	Appendix C

FIRM ENERGY SALES AGREEMENT
(10 aMW or Less)

NOTCH BUTTE WIND PARK LLC

Project Number: 31615300

THIS AGREEMENT, entered into on this 14 day of Oct 2005 between NOTCH BUTTE WIND PARK, an Idaho limited liability company (Seller), and IDAHO POWER COMPANY, an Idaho corporation (Idaho Power), hereinafter sometimes referred to collectively as "Parties" or individually as "Party."

WITNESSETH:

WHEREAS, Seller will design, construct, own, maintain and operate an electric generation facility; and

WHEREAS, Seller wishes to sell, and Idaho Power is willing to purchase, firm electric energy produced by the Seller's Facility.

THEREFORE, In consideration of the mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

ARTICLE I: DEFINITIONS

As used in this Agreement and the appendices attached hereto, the following terms shall have the following meanings:

- 1.1 "Commission" - The Idaho Public Utilities Commission.
- 1.2 "Contract Year" - The period commencing each calendar year on the same calendar date as the Operation Date and ending 364 days thereafter.
- 1.3 "Designated Dispatch Facility" - Idaho Power's Systems Operations Group, or any subsequent group designated by Idaho Power.
- 1.4 "Disconnection Equipment" - All equipment specified in Schedule 72 and the Generation Interconnection Process and any additional equipment specified in Appendix B.
- 1.5 "Facility" - That electric generation facility described in Appendix B of this Agreement.

- 1.6 "First Energy Date" - The day commencing at 0001 hours, Mountain Time, following the day that Seller has satisfied the requirements of Article IV and the Seller begins delivering energy to Idaho Power's system at the Point of Delivery.
- 1.7 "Generation Interconnection Process" – Idaho Power's generation interconnection application and engineering review process developed to ensure a safe and reliable generation interconnection in compliance with all applicable regulatory requirements, Prudent Electrical Practices and national safety standards.
- 1.8 "Inadvertent Energy" – Electric energy Seller does not intend to generate. Inadvertent energy is more particularly described in paragraph 7.3 of this Agreement.
- 1.9 "Interconnection Facilities" - All equipment specified in Schedule 72 and the Generation Interconnection Process and any additional equipment specified in Appendix B.
- 1.10 "Initial Capacity Determination" – The process by which Idaho Power confirms that under normal or average design conditions the Facility will generate at no more than 10 average MW per month and is therefore eligible to be paid the published rates in accordance with Commission Order No. 29632.
- 1.11 "Losses" – The loss of electrical energy expressed in kilowatt hours (kWh) occurring as a result of the transformation and transmission of energy between the point where the Facility's energy is metered and the point the Facility's energy is delivered to the Idaho Power electrical system. The loss calculation formula will be as specified in Appendix B of this Agreement.
- 1.12 "Market Energy Cost" – Eighty-five percent (85%) of the weighted average of the daily on-peak and off-peak Dow Jones Mid-Columbia Index (Dow Jones Mid-C Index) prices for non-firm energy. If the Dow Jones Mid-Columbia Index price is discontinued by the reporting agency, both Parties will mutually agree upon a replacement index, which is similar to the Dow Jones Mid-Columbia Index. The selected replacement index will be consistent with other similar agreements and a commonly used index by the electrical industry.
- 1.13 "Material Breach" – A Default (paragraph 22.2.1) subject to paragraph 22.2.2.

- 1.14 “Maximum Capacity Amount” – The maximum capacity (MW) of the Facility will be as specified in Appendix B of this Agreement.
- 1.15 “Metering Equipment” - All equipment specified in Schedule 72, the Generation Interconnection Process, this Agreement and any additional equipment specified in Appendix B required to measure, record and telemeter power flows between the Seller's electric generation plant and Idaho Power's system.
- 1.16 “Net Energy” – All of the electric energy produced by the Facility, less Station Use, less Losses, expressed in kilowatt hours (kWh). Seller commits to deliver all Net Energy to Idaho Power at the Point of Delivery for the full term of the Agreement. Net Energy does not include Inadvertent Energy.
- 1.17 “Operation Date” – The day commencing at 0001 hours, Mountain Time, following the day that all requirements of paragraph 5.2 have been completed.
- 1.18 “Point of Delivery” – The location specified in Appendix B, where Idaho Power’s and the Seller’s electrical facilities are interconnected.
- 1.19 “Prudent Electrical Practices” – Those practices, methods and equipment that are commonly and ordinarily used in electrical engineering and operations to operate electric equipment lawfully, safely, dependably, efficiently and economically.
- 1.20 “Scheduled Operation Date” – The date specified in Appendix B when Seller anticipates achieving the Operation Date.
- 1.21 “Schedule 72” – Idaho Power’s Tariff No 101, Schedule 72 or its successor schedules as approved by the Commission.
- 1.22 “Season” – The three periods identified in paragraph 6.2.1 of this Agreement.
- 1.23 “Special Facilities” - Additions or alterations of transmission and/or distribution lines and transformers as described in Appendix B, Schedule 72 or the Generation Interconnection Process required to safely interconnect the Seller's Facility to the Idaho Power system.
- 1.24 “Station Use” – Electric energy that is used to operate equipment that is auxiliary or otherwise related to the production of electricity by the Facility.

- 1.25 “Surplus Energy” – (1) Net Energy produced by the Seller’s Facility and delivered to the Idaho Power electrical system during the month which exceeds 110% of the monthly Net Energy Amount for the corresponding month specified in paragraph 6.2. or (2) If the Net Energy produced by the Seller’s Facility and delivered to the Idaho Power electrical system during the month is less than 90% of the monthly Net Energy Amount for the corresponding month specified in paragraph 6.2, then all Net Energy delivered by the Facility to the Idaho Power electrical system for that given month or (3) All Net Energy produced by the Seller’s Facility and delivered by the Facility to the Idaho Power electrical system prior to the Operation Date.
- 1.26 “Total Cost of the Facility” - The total cost of structures, equipment and appurtenances.

ARTICLE II: NO RELIANCE ON IDAHO POWER

- 2.1 Seller Independent Investigation - Seller warrants and represents to Idaho Power that in entering into this Agreement and the undertaking by Seller of the obligations set forth herein, Seller has investigated and determined that it is capable of performing hereunder and has not relied upon the advice, experience or expertise of Idaho Power in connection with the transactions contemplated by this Agreement.
- 2.2 Seller Independent Experts - All professionals or experts including, but not limited to, engineers, attorneys or accountants, that Seller may have consulted or relied on in undertaking the transactions contemplated by this Agreement have been solely those of Seller.

ARTICLE III: WARRANTIES

- 3.1 No Warranty by Idaho Power - Any review, acceptance or failure to review Seller’s design, specifications, equipment or facilities shall not be an endorsement or a confirmation by Idaho Power and Idaho Power makes no warranties, expressed or implied, regarding any aspect of Seller’s design, specifications, equipment or facilities, including, but not limited to, safety, durability, reliability, strength, capacity, adequacy or economic feasibility.
- 3.2 Qualifying Facility Status - Seller warrants that the Facility is a “Qualifying Facility,” as that term

is used and defined in 18 CFR §292.207. After initial qualification, Seller will take such steps as may be required to maintain the Facility's Qualifying Facility status during the term of this Agreement and Seller's failure to maintain Qualifying Facility status will be a Material Breach of this Agreement. Idaho Power reserves the right to review the Seller's Qualifying Facility status and associated support and compliance documents at anytime during the term of this Agreement.

ARTICLE IV: CONDITIONS TO ACCEPTANCE OF ENERGY

- 4.1 Prior to the First Energy Date and as a condition of Idaho Power's acceptance of deliveries of energy from the Seller, Seller shall:
- 4.1.1 Submit proof to Idaho Power that all licenses, permits or approvals necessary for Seller's operations have been obtained from applicable federal, state or local authorities, including, but not limited to, evidence of compliance with Subpart B, 18 CFR 292.207.
- 4.1.2 Opinion of Counsel - Submit to Idaho Power an Opinion Letter signed by an attorney admitted to practice and in good standing in the State of Idaho providing an opinion that Seller's licenses, permits and approvals as set forth in paragraph 4.1.1 above are legally and validly issued, are held in the name of the Seller and, based on a reasonable independent review, counsel is of the opinion that Seller is in substantial compliance with said permits as of the date of the Opinion Letter. The Opinion Letter will be in a form acceptable to Idaho Power and will acknowledge that the attorney rendering the opinion understands that Idaho Power is relying on said opinion. Idaho Power's acceptance of the form will not be unreasonably withheld. The Opinion Letter will be governed by and shall be interpreted in accordance with the legal opinion accord of the American Bar Association Section of Business Law (1991).
- 4.1.3 Initial Capacity Determination - Submit to Idaho Power such data as Idaho Power may reasonably require to perform the Initial Capacity Determination. Such data will include but not be limited to, equipment specifications, prime mover data, resource characteristics, normal and/or average operating design conditions and Station Use data.

Upon receipt of this information, Idaho Power will review the provided data and if necessary, request additional data to complete the Initial Capacity Determination within a reasonable time.

- 4.1.4 Engineer's Certifications - Submit an executed Engineer's Certification of Design & Construction Adequacy and an Engineer's Certification of Operations and Maintenance (O&M) Policy as described in Commission Order No. 21690. These certificates will be in the form specified in Appendix C but may be modified to the extent necessary to recognize the different engineering disciplines providing the certificates.
- 4.1.5 Insurance - Submit written proof to Idaho Power of all insurance required in Article XV.
- 4.1.6 Interconnection - Provide written proof to Idaho Power that all Schedule 72 and Generation Interconnection Process requirements have been completed.
- 4.1.7 Written Acceptance - Request and obtain written confirmation from Idaho Power that all conditions to acceptance of energy have been fulfilled. Such written confirmation shall be provided within a commercially reasonable time following the Seller's request and will not be unreasonably withheld by Idaho Power.

ARTICLE V: TERM AND OPERATION DATE

- 5.1 Term - Subject to the provisions of paragraph 5.2 below, this Agreement shall become effective on the date first written and shall continue in full force and effect for a period of twenty (20) Contract Years from the Operation Date.
- 5.2 Operation Date - The Operation Date may occur only after the Facility has achieved all of the following:
 - a) Achieved the First Energy Date.
 - b) Commission approval of this Agreement in a form acceptable to Idaho Power has been received.
 - c) Seller has demonstrated to Idaho Power's satisfaction that the Facility is complete and able to provide energy in a consistent, reliable and safe manner and has requested an

Operation Date in written form.

- d) Seller has requested an Operation Date from Idaho Power in a written format.
- e) Seller has received written confirmation from Idaho Power of the Operation Date.

This confirmation will not be unreasonably withheld by Idaho Power.

5.3 Seller's failure to achieve the Operation Date within ten (10) months of the Scheduled Operation Date will be an event of default.

ARTICLE VI: PURCHASE AND SALE OF NET ENERGY

6.1 Delivery and Acceptance of Net Energy - Except when either Party's performance is excused as provided herein, Idaho Power will purchase and Seller will sell all of the Net Energy to Idaho Power at the Point of Delivery. All Inadvertent Energy produced by the Facility will also be delivered by the Seller to Idaho Power at the Point of Delivery. At no time will the total amount of Net Energy and/or Inadvertent Energy produced by the Facility and delivered by the Seller to the Point of Delivery exceed the Maximum Capacity Amount.

6.2 Net Energy Amounts - Seller intends to produce and deliver Net Energy in the following monthly amounts:

6.2.1 Initial Year Monthly Net Energy Amounts:

	<u>Month</u>	<u>kWh</u>
Season 1	March	5,077,634
	April	4,358,815
	May	4,512,845
Season 2	July	3,391,624
	August	3,090,413
	November	4,811,622
	December	4,766,515
Season 3	June	4,667,598
	September	3,861,307
	October	5,017,769
	January	4,082,420
	February	5,309,837

6.2.2 Ongoing Monthly Net Energy Amounts - Seller shall initially provide Idaho Power with one year of monthly generation estimates (Initial Year Monthly Net Energy Amounts) and beginning at the end of month nine and every three months thereafter provide Idaho Power with an additional three months of forward generation estimates. This information will be provided to Idaho Power by written notice in accordance with paragraph 28.1, no later than 5:00 PM of the 5th day following the end of the previous month. If the Seller does not provide the Ongoing Monthly Net Energy amounts in a timely manner, Idaho Power will use the most recent 3 months of the Initial Year Monthly Net Energy Amounts specified in paragraph 6.2.1 for the next 3 months of monthly Net Energy amounts.

6.2.3 Seller's Adjustment of Net Energy Amount –

6.2.3.1 No later than the Operation Date, by written notice given to Idaho Power in accordance with paragraph 28.1, the Seller may revise all of the previously provided Initial Year Monthly Net Energy Amounts.

6.2.3.2 Beginning with the end of the 3rd month after the Operation Date and at the end of every third month thereafter: (1) the Seller may not revise the immediate next three months of previously provided Net Energy Amounts, (2) but by written notice given to Idaho Power in accordance with paragraph 28.1, no later than 5:00 PM of the 5th day following the end of the previous month, the Seller may revise all other previously provided Net Energy Amounts. Failure to provide timely written notice of changed amounts will be deemed to be an election of no change.

6.2.4 Idaho Power Adjustment of Net Energy Amount – If Idaho Power is excused from accepting the Seller's Net Energy as specified in paragraph 14.2.1 or if the Seller declares a Suspension of Energy Deliveries as specified in paragraph 14.3.1 and the Seller's declared Suspension of Energy Deliveries is accepted by Idaho Power, the Net Energy

Amount as specified in paragraph 6.2 for the specific month in which the reduction or suspension under paragraph 14.2.1 or 14.3.1 occurs will be reduced in accordance with the following:

Where:

NEA = Current Month's Net Energy Amount (Paragraph 6.2)

SGU = a.) If Idaho Power is excused from accepting the Seller's Net Energy as specified in paragraph 14.2.1 this value will be equal to the percentage of curtailment as specified by Idaho Power multiplied by the TGU as defined below.

b.) If the Seller declares a Suspension of Energy Deliveries as specified in paragraph 14.3.1 this value will be the sum of the individual generation units size ratings as specified in Appendix B that are impacted by the circumstances causing the Seller to declare a Suspension of Energy Deliveries.

TGU = Sum of all of the individual generator ratings of the generation units at this Facility as specified in Appendix B of this agreement.

RSH = Actual hours the Facility's Net Energy deliveries were either reduced or suspended under paragraph 14.2.1 or 14.3.1

TH = Actual total hours in the current month

Resulting formula being:

$$\text{Adjusted Net Energy Amount} = \text{NEA} - \left(\left(\frac{\text{SGU}}{\text{TGU}} \times \text{NEA} \right) \times \left(\frac{\text{RSH}}{\text{TH}} \right) \right)$$

This Adjusted Net Energy Amount will be used in applicable Surplus Energy calculations for only the specific month in which Idaho Power was excused from accepting the Seller's Net Energy or the Seller declared a Suspension of Energy.

6.3 Unless excused by an event of Force Majeure, Seller's failure to deliver Net Energy in any Contract Year in an amount equal to at least ten percent (10%) of the sum of the Initial Year Net Energy Amounts as specified in paragraph 6.2 shall constitute an event of default.

ARTICLE VII: PURCHASE PRICE AND METHOD OF PAYMENT

7.1 Net Energy Purchase Price – For all Net Energy, Idaho Power will pay the non-levelized energy price in accordance with Commission Order 29646 with seasonalization factors applied:

	Season 1 - (73.50 %)	Season 2 - (120.00 %)	Season 3 - (100.00 %)
<u>Year</u>	<u>Mills/kWh</u>	<u>Mills/kWh</u>	<u>Mills/kWh</u>
2005	37.00	60.41	50.34
2006	37.85	61.80	51.50
2007	38.73	63.23	52.69
2008	39.62	64.68	53.90
2009	40.53	66.17	55.14
2010	41.46	67.69	56.41
2011	42.42	69.25	57.71
2012	43.39	70.85	59.04
2013	44.39	72.48	60.40
2014	45.42	74.16	61.80
2015	46.47	75.86	63.22
2016	47.54	77.62	64.68
2017	48.63	79.40	66.17
2018	49.76	81.24	67.70
2019	50.91	83.11	69.26
2020	52.07	85.02	70.85
2021	53.28	86.99	72.49
2022	54.51	88.99	74.16
2023	55.76	91.04	75.87
2024	57.05	93.14	77.62
2025	58.37	95.29	79.41
2026	59.72	97.50	81.25

7.2 Surplus Energy Price - For all Surplus Energy, Idaho Power shall pay to the Seller the current month's Market Energy Cost or the Net Energy Purchase Price specified in paragraph 7.1, whichever is lower.

7.3 Inadvertent Energy –

7.3.1 Inadvertent Energy is electric energy produced by the Facility, expressed in kWh, which the Seller delivers to Idaho Power at the Point of Delivery that exceeds 10,000 kW multiplied by the hours in the specific month in which the energy was delivered. (For example January contains 744 hours. 744 hours times 10,000 kW = 7,440,000 kWh. Energy delivered in January in excess of 7,440, 000 kWh in this example would be

Inadvertent Energy.)

7.3.2 Although Seller intends to design and operate the Facility to generate no more than 10 average MW and therefore does not intend to generate Inadvertent Energy, Idaho Power will accept Inadvertent Energy that does not exceed the Maximum Capacity Amount but will not purchase or pay for Inadvertent Energy

7.4 Payment Due Date – Energy payments to the Seller will be disbursed within 30 days of the date which Idaho Power receives and accepts the documentation of the monthly Net Energy and Inadvertent Energy actually produced by the Seller’s Facility and delivered to Idaho Power as specified in Appendix A.

7.5 Continuing Jurisdiction of the Commission – This Agreement is a special contract and, as such, the rates, terms and conditions contained in this Agreement will be construed in accordance with Idaho Power Company v. Idaho Public Utilities Commission and Afton Energy, Inc., 107 Idaho 781, 693 P.2d 427 (1984); Idaho Power Company v. Idaho Public Utilities Commission, 107 Idaho 1122, 695 P.2d 1 261 (1985); Afton Energy, Inc. v. Idaho Power Company, 111 Idaho 925, 729 P.2d 400 (1986); Section 210 of the Public Utilities Regulatory Policies Act of 1978 and 18 CFR §292.303-308.

ARTICLE VIII: ENVIRONMENTAL ATTRIBUTES

8.1 Idaho Power waives any claim to ownership of Environmental Attributes. Environmental Attributes include, but are not limited to, Green Tags, Green Certificates, Renewable Energy Credits (RECs) and Tradable Renewable Certificates (TRCs) directly associated with the production of energy from the Seller’s Facility.

ARTICLE IX: FACILITY AND INTERCONNECTION

9.1 Design of Facility - Seller will design, construct, install, own, operate and maintain the Facility and any Seller-owned Interconnection Facilities so as to allow safe and reliable generation and delivery of Net Energy and Inadvertent Energy to the Idaho Power Point of Delivery for the full

term of the Agreement.

- 9.2 Interconnection Facilities - Except as specifically provided for in this Agreement, the required Interconnection Facilities will be in accordance with Schedule 72, the Generation Interconnection Process and Appendix B. The Seller is responsible for all costs associated with this equipment as specified in Schedule 72 and the Generation Interconnection Process, including but not limited to initial costs incurred by Idaho Power for equipment costs, installation costs and ongoing monthly Idaho Power operations and maintenance expenses.

ARTICLE X: DISCONNECTION EQUIPMENT

- 10.1 Except as specifically provided for in this Agreement, the required Disconnection Equipment will be in accordance with Schedule 72, the Generation Interconnection Process and Appendix B. The Seller is responsible for all costs associated with this equipment as specified in Schedule 72 and the Generation Interconnection Process, including but not limited to initial costs incurred by Idaho Power for equipment costs, installation costs and Idaho Power ongoing monthly operations and monthly maintenance expenses.

ARTICLE XI: METERING AND TELEMETRY

- 11.1 Metering and Telemetry - Idaho Power shall, for the account of Seller, provide, install, and maintain Metering Equipment to be located at a mutually agreed upon location to record and measure power flows to Idaho Power in accordance with Schedule 72, Generation Interconnection Process and Appendix B of this Agreement. The Metering Equipment will be at the location and the type required to measure, record and report the Facility's Net Energy, Station Use, Inadvertent Energy and maximum energy deliveries (kW) in a manner to provide Idaho Power adequate energy measurement data to administer this Agreement and to integrate this Facility's energy production into the Idaho Power electrical system. All Metering Equipment and installation costs shall be borne by Seller, including costs incurred by Idaho Power for inspecting and testing such equipment at reasonable intervals at Idaho Power's actual cost of providing this

Metering Equipment and services. The Metering Equipment shall be at the location described in Appendix B of this Agreement. All meters used to determine the billing hereunder shall be sealed and the seals shall be broken only by Idaho Power when the meters are to be inspected, tested or adjusted.

11.2 Meter Inspection - Idaho Power shall inspect installations annually and test meters on the applicable periodic test schedule relevant to the equipment installed as specified in Appendix B of this Agreement. If requested by Seller, Idaho Power shall make a special inspection or test of a meter and Seller shall pay the reasonable costs of such special inspection. Both Parties shall be notified of the time when any inspection or test shall take place, and each Party may have representatives present at the test or inspection. If a meter is found to be inaccurate or defective, it shall be adjusted, repaired or replaced, at Idaho Power's expense in order to provide accurate metering. If a meter fails to register, or if the measurement made by a meter during a test varies by more than two percent (2 %) from the measurement made by the standard meter used in the test, adjustment (either upward or downward) to the payments Seller has received shall be made to correct those payments affected by the inaccurate meter for the actual period during which inaccurate measurements were made. If the actual period cannot be determined, corrections to the payments will be based on the shorter of (1) a period equal to one-half the time from the date of the last previous test of the meter to the date of the test which established the inaccuracy of the meter; or (2) six (6) months.

11.3 Telemetry – Idaho Power will install, operate and maintain at Seller's expense metering, communications and telemetry equipment which will be capable of providing Idaho Power with continuous instantaneous telemetry of Seller's Net Energy and Inadvertent Energy produced and delivered to the Idaho Power Point of Delivery to Idaho Power's Designated Dispatch Facility.

ARTICLE XII - RECORDS

12.1 Maintenance of Records - Seller shall maintain at the Facility or such other location mutually acceptable to the Parties adequate total generation, Net Energy, Station Use, Inadvertent Energy

and maximum generation (kW) records in a form and content recommended by Idaho Power.

- 12.2 Inspection - Either Party, after reasonable notice to the other Party, shall have the right, during normal business hours, to inspect and audit any or all generation, Net Energy, Station Use, Inadvertent Energy and maximum generation (kW) records pertaining to the Seller's Facility.

ARTICLE XIII - PROTECTION

- 13.1 Seller shall construct, operate and maintain the Facility and Seller-furnished Interconnection Facilities in accordance with Schedule 72, the Generation Interconnection Process, Appendix B of this Agreement, Prudent Electrical Practices, the National Electrical Code, the National Electrical Safety Code and any other applicable local, state and federal codes. Seller acknowledges receipt of the Generation Interconnection Process. If, in the reasonable opinion of Idaho Power, Seller's operation of the Facility or Interconnection Facilities is unsafe or may otherwise adversely affect Idaho Power's equipment, personnel or service to its customers, Idaho Power may physically interrupt the flow of energy from the Facility as specified within Schedule 72, the Generation Interconnection Process or take such other reasonable steps as Idaho Power deems appropriate. Except in the case of an emergency, Idaho Power will attempt to notify Seller of such interruption prior to its occurrence as provided in paragraph 14.9. Seller shall provide and maintain adequate protective equipment sufficient to prevent damage to the Facility and Seller-furnished Interconnection Facilities. In some cases, some of Seller's protective relays will provide back-up protection for Idaho Power's facilities. In that event, Idaho Power will test such relays annually and Seller will pay the actual cost of such annual testing.

ARTICLE XIV - OPERATIONS

- 14.1 Communications - Idaho Power and the Seller shall maintain appropriate operating communications through Idaho Power's Designated Dispatch Facility in accordance with Appendix A of this Agreement.

14.2 Energy Acceptance –

14.2.1 Idaho Power shall be excused from accepting and paying for Net Energy or accepting Inadvertent Energy produced by the Facility and delivered by the Seller to the Point of Delivery, if it is prevented from doing so by an event of Force Majeure, or if Idaho Power determines that curtailment, interruption or reduction of Net Energy or Inadvertent Energy deliveries is necessary because of line construction or maintenance requirements, emergencies, electrical system operating conditions on its system or as otherwise required by Prudent Electrical Practices. If, for reasons other than an event of Force Majeure, Idaho Power requires such a curtailment, interruption or reduction of Net Energy deliveries for a period that exceeds twenty (20) days, beginning with the twenty-first day of such interruption, curtailment or reduction, Seller will be deemed to be delivering Net Energy at a rate equivalent to the pro rata daily average of the amounts specified for the applicable month in paragraph 6.2. Idaho Power will notify Seller when the interruption, curtailment or reduction is terminated.

14.2.2 If, in the reasonable opinion of Idaho Power, Seller's operation of the Facility or Interconnection Facilities is unsafe or may otherwise adversely affect Idaho Power's equipment, personnel or service to its customers, Idaho Power may physically interrupt the flow of energy from the Facility as specified within Schedule 72 or take such other reasonable steps as Idaho Power deems appropriate.

14.2.3 Under no circumstances will the Seller deliver Net Energy and/or Inadvertent Energy from the Facility to the Point of Delivery in an amount that exceeds the Maximum Capacity Amount. Seller's failure to limit deliveries to the Maximum Capacity Amount will be a Material Breach of this Agreement.

14.3 Seller Declared Suspension of Energy Deliveries

14.3.1 If the Seller's Facility experiences a forced outage due to equipment failure which is not caused by an event of Force Majeure or by neglect, disrepair or lack of adequate preventative maintenance of the Seller's Facility, Seller may, after giving notice as

provided in paragraph 14.3.2 below, temporarily suspend all deliveries of Net Energy to Idaho Power from the Facility or from individual generation unit(s) within the Facility impacted by the forced outage for a period of not less than 48 hours to correct the forced outage condition (“Declared Suspension of Energy Deliveries”). The Seller’s Declared Suspension of Energy Deliveries will begin at the start of the next full hour following the Seller’s telephone notification as specified in paragraph 14.3.2 and will continue for the time as specified (not less than 48 hours) in the written notification provided by the Seller. In the month(s) in which the Declared Suspension of Energy occurred, the Net Energy Amount will be adjusted as specified in paragraph 6.2.4.

14.3.2 If the Seller desires to initiate a Declared Suspension of Energy Deliveries as provided in paragraph 14.3.1, the Seller will notify the Designated Dispatch Facility by telephone. The beginning hour of the Declared Suspension of Energy Deliveries will be at the earliest the next full hour after making telephone contact with Idaho Power. The Seller will, within 24 hours after the telephone contact, provide Idaho Power a written notice in accordance with Article XXVIII that will contain the beginning hour and duration of the Declared Suspension of Energy Deliveries and a description of the conditions that caused the Seller to initiate a Declared Suspension of Energy Deliveries. Idaho Power will review the documentation provided by the Seller to determine Idaho Power’s acceptance of the described forced outage as qualifying for a Declared Suspension of Energy Deliveries as specified in paragraph 14.3.1. Idaho Power’s acceptance of the Seller’s forced outage as an acceptable forced outage will be based upon the clear documentation provided by the Seller that the forced outage is not due to an event of Force Majeure or by neglect, disrepair or lack of adequate preventative maintenance of the Seller’s Facility.

14.5 Voltage Levels - Seller, in accordance with Prudent Electrical Practices shall minimize voltage fluctuations and maintain voltage levels acceptable to Idaho Power. Idaho Power may, in accordance with Prudent Electrical Practices, upon one hundred eighty (180) days' notice to the Seller, change its nominal operating voltage level by more than ten percent (10%) at the Point of

Delivery, in which case Seller shall modify, at Idaho Power's expense, Seller's equipment as necessary to accommodate the modified nominal operating voltage level.

- 14.6 Generator Ramping - Idaho Power, in accordance with Prudent Electrical Practices, shall have the right to limit the rate that generation is changed at startup, during normal operation or following reconnection to Idaho Power's electrical system. Generation ramping may be required to permit Idaho Power's voltage regulation equipment time to respond to changes in power flow.
- 14.7 Scheduled Maintenance – On or before January 31 of each calendar year, Seller shall submit a written proposed maintenance schedule of significant Facility maintenance for that calendar year and Idaho Power and Seller shall mutually agree as to the acceptability of the proposed schedule. The Parties determination as to the acceptability of the Seller's timetable for scheduled maintenance will take into consideration Prudent Electrical Practices, Idaho Power system requirements and the Seller's preferred schedule. Neither Party shall unreasonably withhold acceptance of the proposed maintenance schedule.
- 14.8 Maintenance Coordination - The Seller and Idaho Power shall, to the extent practical, coordinate their respective line and Facility maintenance schedules such that they occur simultaneously.
- 14.9 Contact Prior to Curtailment - Idaho Power will make a reasonable attempt to contact the Seller prior to exercising its rights to curtail, interrupt or reduce deliveries from the Seller's Facility. Seller understands that in the case of emergency circumstances, real time operations of the electrical system, and/or unplanned events Idaho Power may not be able to provide notice to the Seller prior to interruption, curtailment, or reduction of electrical energy deliveries to Idaho Power.

ARTICLE XV: INDEMNIFICATION AND INSURANCE

- 15.1 Indemnification - Each Party shall agree to hold harmless and to indemnify the other Party, its officers, agents, affiliates, subsidiaries, parent company and employees against all loss, damage, expense and liability to third persons for injury to or death of person or injury to property, proximately caused by the indemnifying Party's construction, ownership, operation or

maintenance of, or by failure of, any of such Party's works or facilities used in connection with this Agreement. The indemnifying Party shall, on the other Party's request, defend any suit asserting a claim covered by this indemnity. The indemnifying Party shall pay all costs, including reasonable attorney fees that may be incurred by the other Party in enforcing this indemnity.

15.2 Insurance - During the term of this Agreement, Seller shall secure and continuously carry the following insurance coverage:

15.2.1 Comprehensive General Liability Insurance for both bodily injury and property damage with limits equal to \$1,000,000, each occurrence, combined single limit. The deductible for such insurance shall be consistent with current Insurance Industry Utility practices for similar property.

15.2.2 The above insurance coverage shall be placed with an insurance company with an A.M. Best Company rating of A- or better and shall include:

- (a) An endorsement naming Idaho Power as an additional insured and loss payee as applicable; and
- (b) A provision stating that such policy shall not be canceled or the limits of liability reduced without sixty (60) days' prior written notice to Idaho Power.

15.3 Seller to Provide Certificate of Insurance - As required in paragraph 4.1.5 herein and annually thereafter, Seller shall furnish Idaho Power a certificate of insurance, together with the endorsements required therein, evidencing the coverage as set forth above.

15.4 Seller to Notify Idaho Power of Loss of Coverage - If the insurance coverage required by paragraph 15.2 shall lapse for any reason, Seller will immediately notify Idaho Power in writing. The notice will advise Idaho Power of the specific reason for the lapse and the steps Seller is taking to reinstate the coverage. Failure to provide this notice and to expeditiously reinstate or replace the coverage will constitute a Material Breach of this Agreement.

ARTICLE XVI. FORCE MAJEURE

16.1 As used in this Agreement, "Force Majeure" or "an event of Force Majeure" means any cause

beyond the control of the Seller or of Idaho Power which, despite the exercise of due diligence, such Party is unable to prevent or overcome. Force Majeure includes, but is not limited to, acts of God, fire, flood, storms, wars, hostilities, civil strife, strikes and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, or changes in law or regulation occurring after the Operation Date, which, by the exercise of reasonable foresight such party could not reasonably have been expected to avoid and by the exercise of due diligence, it shall be unable to overcome. If either Party is rendered wholly or in part unable to perform its obligations under this Agreement because of an event of Force Majeure, both Parties shall be excused from whatever performance is affected by the event of Force Majeure, provided that:

- (1) The non-performing Party shall, as soon as is reasonably possible after the occurrence of the Force Majeure, give the other Party written notice describing the particulars of the occurrence.
- (2) The suspension of performance shall be of no greater scope and of no longer duration than is required by the event of Force Majeure.
- (3) No obligations of either Party which arose before the occurrence causing the suspension of performance and which could and should have been fully performed before such occurrence shall be excused as a result of such occurrence.

ARTICLE XVII: LAND RIGHTS

17.1 Seller to Provide Access - Seller hereby grants to Idaho Power for the term of this Agreement all necessary rights-of-way and easements to install, operate, maintain, replace, and remove Idaho Power's Metering Equipment, Interconnection Equipment, Disconnection Equipment, Protection Equipment and other Special Facilities necessary or useful to this Agreement, including adequate and continuing access rights on property of Seller. Seller warrants that it has procured sufficient easements and rights-of-way from third parties so as to provide Idaho Power with the access described above. All documents granting such easements or rights-of-way shall be subject to

Idaho Power's approval and in recordable form.

- 17.2 Use of Public Rights-of-Way - The Parties agree that it is necessary to avoid the adverse environmental and operating impacts that would occur as a result of duplicate electric lines being constructed in close proximity. Therefore, subject to Idaho Power's compliance with paragraph 17.4, Seller agrees that should Seller seek and receive from any local, state or federal governmental body the right to erect, construct and maintain Seller-furnished Interconnection Facilities upon, along and over any and all public roads, streets and highways, then the use by Seller of such public right-of-way shall be subordinate to any future use by Idaho Power of such public right-of-way for construction and/or maintenance of electric distribution and transmission facilities and Idaho Power may claim use of such public right-of-way for such purposes at any time. Except as required by paragraph 17.4, Idaho Power shall not be required to compensate Seller for exercising its rights under this paragraph 17.2.
- 17.3 Joint Use of Facilities - Subject to Idaho Power's compliance with paragraph 17.4, Idaho Power may use and attach its distribution and/or transmission facilities to Seller's Interconnection Facilities, may reconstruct Seller's Interconnection Facilities to accommodate Idaho Power's usage or Idaho Power may construct its own distribution or transmission facilities along, over and above any public right-of-way acquired from Seller pursuant to paragraph 17.2, attaching Seller's Interconnection Facilities to such newly constructed facilities. Except as required by paragraph 17.4, Idaho Power shall not be required to compensate Seller for exercising its rights under this paragraph 17.3.
- 17.4 Conditions of Use - It is the intention of the Parties that the Seller be left in substantially the same condition, both financially and electrically, as Seller existed prior to Idaho Power's exercising its rights under this Article XVII. Therefore, the Parties agree that the exercise by Idaho Power of any of the rights enumerated in paragraphs 17.2 and 17.3 shall: (1) comply with all applicable laws, codes and Prudent Electrical Practices, (2) equitably share the costs of installing, owning and operating jointly used facilities and rights-of-way. If the Parties are unable to agree on the method of apportioning these costs, the dispute will be submitted to the Commission for

resolution and the decision of the Commission will be binding on the Parties, and (3) shall provide Seller with an interconnection to Idaho Power's system of equal capacity and durability as existed prior to Idaho Power exercising its rights under this Article XVII.

ARTICLE XVIII: LIABILITY; DEDICATION

- 18.1 Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public or affect the status of Idaho Power as an independent public utility corporation or Seller as an independent individual or entity.

ARTICLE XIX: SEVERAL OBLIGATIONS

- 19.1 Except where specifically stated in this Agreement to be otherwise, the duties, obligations and liabilities of the Parties are intended to be several and not joint or collective. Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or impose a trust or partnership duty, obligation or liability on or with regard to either Party. Each Party shall be individually and severally liable for its own obligations under this Agreement.

ARTICLE XX: WAIVER

- 20.1 Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or other matter.

ARTICLE XXI: CHOICE OF LAWS AND VENUE

- 21.1 This Agreement shall be construed and interpreted in accordance with the laws of the State of Idaho without reference to its choice of law provisions.
- 21.2 Venue for any litigation arising out of or related to this Agreement will lie in the District Court of

the Fourth Judicial District of Idaho in and for the County of Ada.

ARTICLE XXII: DISPUTES AND DEFAULT

- 22.1 Disputes - All disputes related to or arising under this Agreement, including, but not limited to, the interpretation of the terms and conditions of this Agreement, will be submitted to the Commission for resolution.
- 22.2 Notice of Default -
- 22.2.1 Defaults. If either Party fails to perform any of the terms or conditions of this Agreement (an “event of default”), the nondefaulting Party shall cause notice in writing to be given to the defaulting Party, specifying the manner in which such default occurred. If the defaulting Party shall fail to cure such default within the sixty (60) days after service of such notice, or if the defaulting Party reasonably demonstrates to the other Party that the default can be cured within a commercially reasonable time but not within such sixty (60) day period and then fails to diligently pursue such cure, then, the nondefaulting Party may, at its option, terminate this Agreement and/or pursue its legal or equitable remedies.
- 22.2.2 Material Breaches – The notice and cure provisions in paragraph 22.2.1 do not apply to defaults identified in this Agreement as Material Breaches. Material Breaches must be cured as expeditiously as possible following occurrence of the breach.
- 22.3 Security for Performance - Prior to the Operation Date and thereafter for the full term of this Agreement, Seller will provide Idaho Power with the following:
- 22.3.1 Insurance - Evidence of compliance with the provisions of paragraph 15.2. If Seller fails to comply, such failure will be a Material Breach and may only be cured by Seller supplying evidence that the required insurance coverage has been replaced or reinstated;
- 22.3.2 Engineer’s Certifications - Every three (3) years after the Operation Date, Seller will supply Idaho Power with a Certification of Ongoing Operations and Maintenance (O

& M) from a Registered Professional Engineer licensed in the State of Idaho, which Certification of Ongoing O & M shall be in the form specified in Appendix C. Seller's failure to supply the required certificate will be an event of default. Such a default may only be cured by Seller providing the required certificate; and

22.3.3 Licenses and Permits - During the full term of this Agreement, Seller shall maintain compliance with all permits and licenses described in paragraph 4.1.1 of this Agreement. In addition, Seller will supply Idaho Power with copies of any new or additional permits or licenses. At least every fifth Contract Year, Seller will update the documentation described in Paragraph 4.1.1. If at any time Seller fails to maintain compliance with the permits and licenses described in paragraph 4.1.1 or to provide the documentation required by this paragraph, such failure will be an event of default and may only be cured by Seller submitting to Idaho Power evidence of compliance from the permitting agency.

ARTICLE XXIII: GOVERNMENTAL AUTHORIZATION

23.1 This Agreement is subject to the jurisdiction of those governmental agencies having control over either Party of this Agreement.

ARTICLE XXIV: COMMISSION ORDER

24.1 This Agreement shall become finally effective upon the Commission's approval of all terms and provisions hereof without change or condition and declaration that all payments to be made to Seller hereunder shall be allowed as prudently incurred expenses for ratemaking purposes.

ARTICLE XXV: SUCCESSORS AND ASSIGNS

25.1 This Agreement and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties hereto, except that no assignment hereof by either Party shall become effective without the written consent of both Parties being

first obtained. Such consent shall not be unreasonably withheld. Notwithstanding the foregoing, any party which Idaho Power may consolidate, or into which it may merge, or to which it may convey or transfer substantially all of its electric utility assets, shall automatically, without further act, and without need of consent or approval by the Seller, succeed to all of Idaho Power's rights, obligations and interests under this Agreement. This article shall not prevent a financing entity with recorded or secured rights from exercising all rights and remedies available to it under law or contract. Idaho Power shall have the right to be notified by the financing entity that it is exercising such rights or remedies.

ARTICLE XXVI: MODIFICATION

- 26.1 No modification to this Agreement shall be valid unless it is in writing and signed by both Parties and subsequently approved by the Commission.

ARTICLE XXVII: TAXES

- 27.1 Each Party shall pay before delinquency all taxes and other governmental charges which, if failed to be paid when due, could result in a lien upon the Facility or the Interconnection Facilities.

ARTICLE XXVIII: NOTICES

- 28.1 All written notices under this agreement shall be directed as follows and shall be considered delivered when deposited in the U. S. Mail, first-class postage prepaid, as follows:

To Seller: Notch Butte Wind Park, LLC
 Attn: James T. Carkulis
 515 N 27th Street
 P.O. Box 7218
 Boise, Idaho 83702

To Idaho Power:

Original document to:

Vice President, Power Supply
Idaho Power Company
P O Box 70
Boise, Idaho 83707

Copy of document to:

Cogeneration and Small Power Production
Idaho Power Company
P O Box 70
Boise, Idaho 83707

ARTICLE XXIX: ADDITIONAL TERMS AND CONDITIONS

29.1 This Agreement includes the following appendices, which are attached hereto and included by reference:

Appendix A	-	Generation Scheduling and Reporting
Appendix B	-	Facility and Point of Delivery
Appendix C	-	Engineer's Certifications

ARTICLE XXX: SEVERABILITY

30.1 The invalidity or unenforceability of any term or provision of this Agreement shall not affect the validity or enforceability of any other terms or provisions and this Agreement shall be construed in all other respects as if the invalid or unenforceable term or provision were omitted.

ARTICLE XXXI: COUNTERPARTS

31.1 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

ARTICLE XXXII: ENTIRE AGREEMENT

32.1 This Agreement constitutes the entire Agreement of the Parties concerning the subject matter

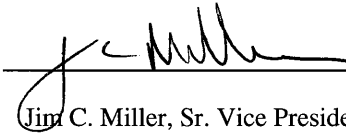
hereof and supersedes all prior or contemporaneous oral or written agreements between the Parties concerning the subject matter hereof.

IN WITNESS WHEREOF, The Parties hereto have caused this Agreement to be executed in their respective names on the dates set forth below:

Idaho Power Company

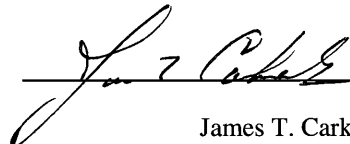
Notch Butte Wind Park L.L.C.

By



Jim C. Miller, Sr. Vice President, Power Supply

By



James T. Carkulis

Dated

10/11/05

"Idaho Power"

Dated

10/14/05

"Seller"

APPENDIX A

A -1 MONTHLY POWER PRODUCTION AND SWITCHING REPORT

At the end of each month the following required documentation will be submitted to:

Idaho Power Company
Attn: Cogeneration and Small Power Production
P O Box 70
Boise, Idaho 83707

The Meter readings required on this report will be the reading on the Idaho Power Meter Equipment measuring the Facility's total energy production, Station Usage, Inadvertent Energy delivered to Idaho Power and the maximum generated energy (kW) as recorded on the Meter Equipment and/or any other required energy measurements to adequately administer this Agreement.

Idaho Power Company

Cogeneration and Small Power Production

MONTHLY POWER PRODUCTION AND SWITCHING REPORT

Month _____ Year _____

Project Name _____ Project Number: _____
 Address _____ Phone Number: _____
 City _____ State _____ Zip _____

	<u>Facility Output</u>	<u>Station Usage</u>	<u>Station Usage</u>	<u>Metered Maximum Generation</u>
Meter Number: _____				
End of Month kWh Meter Reading: _____				kW
Beginning of Month kWh Meter: _____				
Difference: _____				
Times Meter Constant: _____				<u>Net Generation</u>
kWh for the Month: _____	-	-	=	
Metered Demand: _____				

Breaker Opening Record

<u>Date</u>	<u>Time</u>	<u>Meter</u>

*	<u>Reason</u>

Breaker Closing Record

<u>Date</u>	<u>Time</u>	<u>Meter</u>

- * **Breaker Opening Reason Codes**
- 1 Lack of Adequate Prime Mover
 - 2 Forced Outage of Facility
 - 3 Disturbance of IPCo System
 - 4 Scheduled Maintenance
 - 5 Testing of Protection Systems
 - 6 Cause Unknown
 - 7 Other (Explain)

I hereby certify that the above meter readings are true and correct as of Midnight on the last day of the above month and that the switching record is accurate and complete as required by the Firm Energy Sales Agreement to which I am a Party.

Signature Date

A-2 ROUTINE REPORTING

Idaho Power Contact Information

Daily Energy Production Reporting

Call daily by 10 a.m., 1-800-356-4328 or 1-800-635-1093 and leave the following information:

- Project Identification - Project Name and Project Number
- Current Meter Reading
- Estimated Generation for the current day
- Estimated Generation for the next day

Planned and Unplanned Project outages

Call 1-800-345-1319 and leave the following information:

- Project Identification - Project Name and Project Number
- Approximate time outage occurred
- Estimated day and time of project coming back online

Seller's Contact Information

24-Hour Project Operational Contact

Name: _____
Telephone Number: _____
Cell Phone: _____

Project On-site Contact information

Telephone Number: _____

APPENDIX B

FACILITY AND POINT OF DELIVERY

PROJECT NO. 31615300

NOTCH BUTTE WIND PARK

B-1 DESCRIPTION OF FACILITY

The Facility will consist of 12 Wind turbines; model 77 GE SLE with individual generator ratings of 1.5 MW for each unit, for a total Facility generator rating of 18.0 MW.

B-2 LOCATION OF FACILITY

Near:

Sections: 36 Township: R06S Range: R16E County: Jerome Idaho.

Sections: 3,4,5,6,8,9 Township: T07S Range: R17E County: Jerome Idaho

Sections: 3,4,5,8,9 Township: T07S Range: R17E County: Lincoln Idaho

B-3 SCHEDULED FIRST ENERGY AND OPERATION DATE

Seller has selected November 1, 2006 as the estimated Scheduled First Energy Date.

Seller has selected May 1, 2007 as the estimated Scheduled Operation Date.

In making these selections, Seller recognizes that adequate testing of the Facility and completion of all requirements in paragraph 5.2 of this Agreement must be completed prior to the project being granted an Operation Date. Idaho Power, based on the information supplied by the Seller, will schedule its construction in accordance with Schedule 72 and the Generation Interconnection Process.

B-4 MAXIMUM CAPACITY AMOUNT: This value will be 19.2 MW which is consistent with the value provided by the Seller to Idaho Power in the Generation Interconnection process. This value is the maximum energy (MW) that potentially could be delivered by the Seller's Facility to

the Idaho Power electrical system at any moment in time.

B-5 POINT OF DELIVERY

“Point of Delivery” means, unless otherwise agreed by both Parties, the point of where the Sellers Facility’s energy is delivered to the Idaho Power electrical system. The Idaho Power Generation Interconnection process will determine the specific Point of Delivery for this Facility. Upon completion of the Generation Interconnection process the Point of Delivery identified by this process will become an integral part of this Agreement.

B-6 LOSSES

If the Idaho Power Metering equipment is capable of measuring the exact energy deliveries by the Seller to the Idaho Power electrical system at the Point of Delivery, no Losses will be calculated for this Facility. If the Idaho Power Metering is unable to measure the exact energy deliveries by the Seller to the Idaho Power electrical system at the Point of Delivery, a Losses calculation will be established to measure the energy losses (kWh) between the Seller’s Facility and the Idaho Power Point of Delivery. This loss calculation will be initially set at 2% of the kWh energy production recorded on the Facility generation metering equipment. At such time as Seller provides Idaho Power with the electrical equipment specifications (transformer loss specifications, conductor sizes, etc) of all of the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power will configure a revised loss calculation formula to be agreed to by both parties and used to calculate the kWh Losses for the remaining term of the Agreement. If at anytime during the term of this Agreement, Idaho Power determines that the loss calculation does not correctly reflect the actual kWh losses attributed to the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power may adjust the calculation and retroactively adjust the previous months kWh loss calculations.

B-7 METERING AND TELEMETRY

The Idaho Power Generation Interconnection process will determine the specific metering and telemetry requirements for this Facility. At the minimum the Metering Equipment and Telemetry equipment must be able to provide and record hourly energy deliveries to the Point of Delivery and any other energy measurements required to administer this Agreement. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Seller will arrange for and make available at Seller's cost communication circuit(s) compatible to Idaho Power's communications equipment and dedicated to Idaho Power's use terminating at the Idaho Power facilities capable of providing Idaho Power with continuous instantaneous information on the Facilities energy production. Idaho Power provided equipment will be owned and maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total metering cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

B-7 SPECIAL FACILITIES

The Idaho Power Generation Interconnection process will determine the Special Facility requirements for this Facility. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Idaho Power owned equipment will be maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho

Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total Special Facility cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

B-8 REACTIVE POWER

The Idaho Power Generation Interconnection process will determine the reactive power required to be supplied by Idaho Power to the Seller, based upon information provided by the Seller. The Generation Interconnection process will specify the equipment required on the Idaho Power system to meet the Facility's reactive power requirements. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Idaho Power owned equipment will be maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total reactive power cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

B-9 DISCONNECTION EQUIPMENT

Disconnection Equipment is required to insure that the Seller's Facility will be disconnected from Idaho Power's system in the event of (1) the Seller's delivery of energy exceeds the Maximum Capacity Amount or (2) Idaho Power or the Seller require interruption or curtailment of energy deliveries to Idaho Power or (3) a disturbance on either Idaho Power's system or the Seller's Facility. The Idaho Power Generation Interconnection process will determine the Disconnection Equipment specifications and requirements for this Facility, this equipment is for protection of

the Idaho Power system and equipment only. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. Seller will install all Seller provided equipment, control wire and conduit necessary for the operation of the Disconnection Equipment. Through the Generation Interconnection process, Idaho Power will supply details for the disconnection panel and will test the equipment prior to any operations of the Facility, Seller will provide drawings of their interconnection wiring for engineering approval prior to installation. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Idaho Power owned equipment will be maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total Disconnection Equipment cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

B-10 COSTS

The Idaho Power Generation Interconnection process and this Agreement will identify all cost for this Facility to interconnect to the Idaho Power system, including but not limited to the cost of Metering equipment, Telemetry equipment, Special Facilities, Reactive Power, Disconnection equipment, Protection equipment and Interconnection Equipment. As specified in the Generation Interconnection process and in accordance with Schedule 72 and this Agreement the Seller will reimburse Idaho Power for all costs associated with this equipment. In addition to the equipment, installation and construction charges as specified above, during the term of this Agreement, Seller will pay Idaho Power the monthly operation and maintenance charge specified in Schedule 72 or its successor schedules(s). The monthly operations and maintenance charge will begin on the first day of the month following the date which Idaho Power has completed installation of the

Idaho Power provided equipment and the interconnection equipment is available for use by the Facility. The monthly operations and maintenance charge will be based upon the initial cost paid by the Seller in accordance with Schedule 72. Upon reconciliation of the actual costs, in accordance with Schedule 72 the monthly operations and maintenance charge will be adjusted to reflect the actual cost incurred by Idaho Power and previously charged monthly operation and maintenance expense will be revised to reflect the actual cost incurred by Idaho Power. Idaho Power will refund or Seller will remit any underpayment of the adjusted monthly operations and maintenance charge within sixty (60) days of the determination of this amount.

B-11 SALVAGE

No later than sixty (60) days after the termination or expiration of this Agreement, Idaho Power will prepare and forward to Seller an estimate of the remaining value of those Idaho Power furnished Interconnection Facilities as required under Schedule 72, the Generation Interconnection Process and/or described in this Agreement, less the cost of removal and transfer to Idaho Power's nearest warehouse, if the Interconnection Facilities will be removed. If Seller elects not to obtain ownership of the Interconnection Facilities but instead wishes that Idaho Power reimburse the Seller for said Facilities the Seller may invoice Idaho Power for the net salvage value as estimated by Idaho Power and Idaho Power shall pay such amount to Seller within thirty (30) days after receipt of the invoice. Seller shall have the right to offset the invoice amount against any present or future payments due Idaho Power.

APPENDIX C

ENGINEER'S CERTIFICATION

OF

OPERATIONS & MAINTENANCE POLICY

The undersigned _____, on behalf of himself and _____, hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter "Agreement," between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as IPCo Facility No. _____ and is hereinafter referred to as the "Project."
4. That the Project, which is commonly known as the _____, is located in Section ____ Township _____, Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a twenty (20) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has reviewed and/or supervised the review of the Policy for Operation and Maintenance ("O&M") for this Project and it is his professional opinion that, provided said Project has been designed and built to appropriate standards, adherence to said O&M Policy will result in the

Project's producing at or near the design electrical output, efficiency and plant factor for a twenty (20) year period.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.

10. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____

(P.E. Stamp)

Date _____

APPENDIX C

ENGINEER'S CERTIFICATION

OF

ONGOING OPERATIONS AND MAINTENANCE

The undersigned _____, on behalf of himself and _____ hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter "Agreement," between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as IPCo Facility No. _____ and hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the _____ Project, is located at _____.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a twenty (20) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has made a physical inspection of said Project, its operations and maintenance records since the last previous certified inspection. It is Engineer's professional opinion, based on the Project's appearance, that its ongoing O&M has been substantially in accordance with said O&M Policy; that it is in reasonably good operating condition; and that if adherence to said O&M Policy continues, the Project will continue producing at or near its design electrical output, efficiency and plant factor for the remaining _____ years of the Agreement.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.

10. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____

(P.E. Stamp)

Date _____

APPENDIX C
ENGINEER'S CERTIFICATION
OF
DESIGN & CONSTRUCTION ADEQUACY

The undersigned _____, on behalf of himself and _____, hereinafter collectively referred to as "Engineer", hereby states and certifies to Idaho Power as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Firm Energy Sales Agreement, hereinafter "Agreement", between Idaho Power as Buyer, and _____ as Seller, dated _____, _____.
3. That the cogeneration or small power production project, which is the subject of the Agreement and this Statement, is identified as IPCo Facility No _____ and is hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the _____ Project, is located in Section _____, Township _____, Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a _____ (____) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project and has made the analysis of the plans and specifications independently.
8. That Engineer has reviewed the engineering design and construction of the Project, including the civil work, electrical work, generating equipment, prime mover conveyance system, Seller furnished Interconnection Facilities and other Project facilities and equipment.

9. That the Project has been constructed in accordance with said plans and specifications, all applicable codes and consistent with Prudent Electrical Practices as that term is described in the Agreement.

10. That the design and construction of the Project is such that with reasonable and prudent operation and maintenance practices by Seller, the Project is capable of performing in accordance with the terms of the Agreement and with Prudent Electrical Practices for a _____ (_____) year period.

11. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, in interconnecting the Project with its system, is relying on Engineer's representations and opinions contained in this Statement.

12. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____
(P.E. Stamp)

Date _____

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR) CASE NO. IPC-E-05-32
APPROVAL OF A FIRM ENERGY SALES)
AGREEMENT FOR THE SALE AND)
PURCHASE OF ELECTRIC ENERGY) ORDER NO. 29950
BETWEEN IDAHO POWER COMPANY)
AND NOTCH BUTTE WIND PARK LLC)**

On October 20, 2005, Idaho Power Company (Idaho Power; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting approval of a 20-year Firm Energy Sales Agreement (Agreement) between Idaho Power and Notch Butte Wind Park LLC (Notch Butte) dated October 14, 2005. Under the Agreement, Notch Butte will sell and Idaho Power will purchase electric energy generated by Notch Butte, a project located near Notch Butte, Idaho, which is between Twin Falls and Shoshone, Idaho, in an area more particularly described as Section 36, Township 6 S, Range 16 E, Boise Meridian, Jerome County, Idaho; Sections 3, 4, 5, 6, 8 and 9, Township 7 S, Range 17 E, Boise Meridian, Jerome County, Idaho; and Section 3, 4, 5, 8 and 9, Township 7 S, Range 17 E, Boise Meridian, Lincoln County, Idaho. The project will consist of twelve (12) 1.5 MW GE wind turbines. The nameplate rating of the project is 18.0 MW. Under normal and/or average conditions, the project will not exceed 10 aMW on a monthly basis. If energy in excess of this amount (Inadvertent Energy) is accidentally generated, Idaho Power will accept Inadvertent Energy that does not exceed the 19.2 MW Maximum Capacity Amount, but will not purchase or pay for it. Agreement ¶ 7.3.2; Appendix B-4.

The Notch Butte project will be a qualified small power production facility (QF) under the applicable provisions of the Public Utility Regulatory Policies Act of 1978 (PURPA). As represented by Idaho Power, the Agreement comports with the terms and conditions of Commission Order No. 29632 (*U.S. Geothermal et al v. Idaho Power*), avoided cost Order No. 29646 and Commission Order Nos. 29839, 29851 and 29872 in Case No. IPC-E-05-22. The Agreement is for a 20-year term and contains the non-levelized published avoided cost rates set forth in Order No. 29646.

In interlocutory Order No. 29839 issued in Case No. IPC-E-05-22 the Commission reduced the size cap for QF wind generation facilities entitled to receive the published avoided cost rates from 10 aMW to 100 kW. In its Order, the Commission further identified several criteria that it would consider to determine whether a particular QF wind generation facility in the negotiation queue was sufficiently mature so as to justify “grandfathering” the project to entitlement to the published rates. These criteria are as follows:

- (1) Submittal of a signed power purchase agreement to the utility, or
- (2) Submittal to the utility of a completed Application for Interconnection Study and payment of fee.

In addition to a finding of existence of one or both of the preceding threshold criteria, the QF must also be able to demonstrate other indicia of substantial progress and project maturity, e.g.,

- (1) A wind study demonstrating a viable site for the project,
- (2) A signed contract for wind turbines,
- (3) Arranged financing for the project, and/or
- (4) Related progress on the facility permitting and licensing path.

Order No. 29839, p. 10, August 4, 2005; final Order No. 29851. In reconsideration Order No. 29872 issued on September 21, 2005 in the same case, the Commission reaffirmed the grandfathering criteria and changed the “grandfathering” eligibility deadline from the previously-ordered July 1, 2005, to August 4, 2005, the date of interlocutory Order No. 29839.

Considering and weighing all of the Commission-identified criteria, Idaho Power believes that the Notch Butte project is sufficiently far enough along the development path that it should be “grandfathered” to the published rates. Notch Butte has selected November 2006 as the scheduled first energy date and May 2007 as the scheduled operation date.

As reflected in Agreement Section 24, the Agreement will not become effective until the Commission has approved all the Agreement’s terms and conditions and declares that all payments that Idaho Power makes to Notch Butte for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.

On November 7, 2005, the Commission issued a Notice of Application and Modified Procedure in Case No. IPC-E-05-32. The deadline for filing written comments was November 28, 2005. Comments were filed by Commission Staff and Windland Incorporated. Staff has reviewed the submitted Agreement and finds that it comports with the terms and conditions of Commission Order No. 29632 (*U.S. Geothermal, et al. v. Idaho Power*), avoided cost Order No.

29646 and Commission Order Nos. 29839, 29851 and 29872 in Case No. IPC-E-05-22. The Agreement is for a 20-year term and contains the non-levelized published avoided cost rates set forth in Order No. 29646. Staff recommends approval of the Agreement with an effective date of October 14, 2005.

Windland Incorporated expresses concern that the presence of “signed but not yet built” wind PURPA contracts limits Idaho Power Company’s options to procure other wind energy resources. If projects are approved but not built on schedule, Windland contends that there is a significant financial risk to Idaho ratepayers. Windland contends that Exergy Development Group has been late meeting target dates for three approved projects to date. The United Materials Horseshoe Bend Wind Park project near Great Falls, Montana is now almost a year late in meeting its scheduled on-line date. The Fossil Gulch project near Hagerman, Idaho is on-line but did not achieve the status by its January 1, 2005 milestone target. The Burley Butte project near Burley, Idaho did not meet its October 30, 2005 first energy date. Windland does not expect the Thousand Springs, Pilgrim Stage, Oregon Trail and Tuana Gulch projects to meet their December 31, 2005 scheduled operation dates. If Exergy fails to bring Notch Butte and three other proposed projects on-line by the scheduled May 2007 date, Windland contends that it will be too late for Idaho Power to procure alternate wind resources from another source before the federal production tax credit expires at the end of 2007. Reference Milner Dam (IPC-E-05-30), Lava Beds (IPC-E-05-31), and Salmon Falls (IPC-E-05-33). Windland requests that the Commission examine the totality of facts associated with these four contracts and only approve them if Exergy provides adequate assurances that the projects will be timely built.

Exergy by way of reply contends that Windland raises issues of generic applicability to PURPA contracts relative to penalties or damage calculations for delay in achieving the first operation date for QF projects. Exergy contends that such issues are beyond the scope of the instant proceeding. Exergy further contends that it is black letter law in Idaho that when the Commission makes changes in a utility’s rates or the terms and conditions of service, that such changes may only be made on a prospective basis. *Citing Utah Power & Light v. IPUC*, 107 Idaho 47, 52, 685 P.2d 276 (1984).

Idaho Power in reply comments addresses Exergy contract performance, notes the default provisions of the Agreement and cites prior QF contract policy regarding the inappropriateness of liquidated damage provisions in small QF published rate contracts. Idaho

Power contends that the Notch Butte project satisfies the Commission's grandfathering eligibility criteria and requests that the Commission approve the Firm Energy Sales Agreement. Idaho Power agrees that the template contract the Company currently utilizes for small QF published rate contracts provides essentially a "free option" to the QF developer to sign a contract, lock-in a rate, and then go see if it can actually put together a project. Windland is correct in its assessment, the Company concurs, that should multiple QF projects entitled to the published rates fail to meet the scheduled operation dates, the collective impact could adversely affect the Company's resource planning process. Should the Commission find the performance and liquidated damage issues raised by Windland to be worthy of further consideration, Idaho Power contends that the suggested changes are appropriate only for prospective application and recommends that the appropriate procedure would be to open a separate docket.

COMMISSION FINDINGS

The Commission has reviewed and considered the filings of record in Case No. IPC-E-05-32, including the underlying Agreement, the comments and recommendations of Commission Staff and Windland Incorporated, and the reply comments of Exergy and Idaho Power. We have also reviewed public comments filed in support of the project.

The Commission Staff recommends that the Notch Butte Agreement be approved. Windland Incorporated recommends that the Commission require adequate assurances from the developer that the project will be timely built. Idaho Power notes the default provisions of the Agreement and suggests that the generic performance and liquidated damage issues raised by Windland be addressed, if at all, in a separate docket for prospective application in future contracts.

The Commission has considered the concerns raised by Windland regarding the ramifications of an approved QF project failing to come on-line. While the identified risks exist, we find the risk to be small. There is always a risk that QF projects will not come on-line at the time projected. In addition, prices of resources are always changing. The Company's planning process is flexible enough to accommodate the risk associated with small QF projects. We have no developed record of upfront project failure to justify the imposition of a performance bond requirement assuring that small projects qualifying for published rates will be timely built. Until the facts are demonstrated to be otherwise we do not find a performance bond requirement in this case or an investigation to be warranted.

Idaho Power has presented a Firm Energy Sales Agreement with Notch Butte for Commission consideration and approval. The nameplate rating of the wind facility is 18.0 MW. The contract is for a 20-year term and contains non-levelized published avoided cost rates for energy deliveries not exceeding 10 aMW on a monthly basis. The Commission finds that the Agreement submitted in this case contains acceptable contract provisions and comports with the terms and conditions of Order Nos. 29632 and 29682 in Case Nos. IPC-E-04-8; 04-10. The Commission finds that the project satisfies the grandfathering eligibility criteria established in Order Nos. 29839 and 29872 in Case No. IPC-E-05-22.

The Commission finds it reasonable that the submitted Agreement be approved without further notice or procedure. IDAPA 31.01.01.204. We further find it reasonable to allow payments made under the Agreement as prudently incurred expenses for ratemaking purposes.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over Idaho Power Company, an electric utility, pursuant to the authority and power granted it under Title 61 of the Idaho Code and the Public Utility Regulatory Policies Act of 1978 (PURPA).

The Commission has authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed term obligations for the purchase of energy from qualified facilities and to implement FERC rules.

ORDER

In consideration of the foregoing, IT IS HEREBY ORDERED and the Commission does hereby approve the October 14, 2005 Firm Energy Sales Agreement between Idaho Power Company and Notch Butte Wind Park, LLC.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 10th
day of January 2006.



PAUL KJELLANDER, PRESIDENT

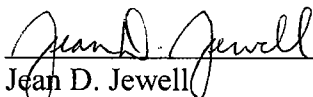


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

b1s/O:IPC-E-05-32_sw

Exhibit 4



IDAHO POWER COMPANY
P.O. BOX 70
BOISE, IDAHO 83707

BARTON L. KLINE
Senior Attorney

October 20, 2005

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington Street
P. O. Box 83720
Boise, Idaho 83720-0074

RECEIVED
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IDAHO PUBLIC
UTILITIES COMMISSION

Re: Case No. IPC-E-05-33
Application For Approval of Firm Energy Sales Agreement
Between Idaho Power and Salmon Falls Wind Park LLC

Dear Ms. Jewell:

Please find enclosed for filing an original and seven (7) copies of Idaho Power Company's Application For Approval of A Firm Energy Sales Agreement for the Sale and Purchase of Electric Energy Between Idaho Power Company and Salmon Falls Park LLC.

I would appreciate it if you would return a stamped copy of this transmittal letter in the enclosed self-addressed, stamped envelope.

Very truly yours,

Barton L. Kline

BLK:jb
Enclosures

BARTON L. KLINE, ISB # 1526
MONICA B. MOEN, ISB # 5734
Idaho Power Company
1221 West Idaho Street
P. O. Box 70
Boise, Idaho 83707
Telephone: (208) 388-2682
FAX Telephone: (208) 388-6936

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IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for Idaho Power Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)
IDAHO POWER COMPANY FOR APPROVAL)
OF A FIRM ENERGY SALES AGREEMENT)
FOR THE SALE AND PURCHASE OF)
ELECTRIC ENERGY BETWEEN IDAHO)
POWER COMPANY AND SALMON FALLS)
WIND PARK LLC)
_____)

CASE NO. IPC-E-05- 33

APPLICATION

COMES NOW, Idaho Power Company ("Idaho Power" or "the Company")
and, pursuant to RP 52, hereby requests that the Commission issue its Order approving
a Firm Energy Sales Agreement between Idaho Power and Salmon Falls Wind Park
LLC ("Salmon Falls") under which Salmon Falls would sell and Idaho Power would
purchase electric energy generated by the Salmon Falls Wind Generating Facility
located near Hagerman Idaho, south of the Bell Rapids area ("Facility").

This Application is based on the following:

I.

Salmon Falls represents that the Facility will be a 21 MW wind generating facility that will be a qualified small power production facility under the applicable provisions of the Public Utility Regulatory Policies Act of 1978 ("PURPA").

II.

On October 14, 2005, Idaho Power and Salmon Falls entered into a Firm Energy Sales Agreement ("Agreement") pursuant to the terms and conditions of Commission Order Nos. 29632, 29646, 29839, 29851 and 29872. Under the terms of the Agreement, Salmon Falls elected to contract with Idaho Power for a twenty-year term. Salmon Falls further elected to contract with the Company using the non-levelized published avoided cost rates as currently established by the Commission for projects that, under normal operating conditions, will not generate more than 10 aMW on a monthly basis.

III.

The Agreement is similar in virtually all respects to several recent PURPA agreements entered into by Idaho Power and approved by the Commission (i.e., Pilgrim Stage Station Wind Park, IPUC Order No. 29771; Oregon Trails Wind Park, IPUC Order No. 29772). The Agreement contains terms and conditions previously approved by the Commission in reviewing other PURPA agreements and is consistent with Order No. 29632 in Case No. IPC-E-04-8 (U.S. Geothermal Complaint).

IV.

The nameplate rating of the Facility is expected to be 18 MW. As provided by the Agreement, Salmon Falls will be required to provide data on the Facility that Idaho Power will use to confirm that, under normal and/or average conditions, generation from the Facility will not exceed 10 aMW on a monthly basis.

V.

In Order No. 29839 issued in Case No. IPC-E-05-22, the Commission ordered that the size cap for QF wind generation facilities entitled to receive the published avoided cost rates be reduced from 10 aMW to 100 kW. In Order No. 29839, the Commission identified several criteria that the Commission would consider to determine whether a particular QF wind generation facility was sufficiently mature so as to justify “grandfathering” the project to entitlement to the published rates. In Order No. 29872 issued on September 21, 2005 in the same case, the Commission addressed several motions for reconsideration of Order No. 29851 and specified that the deadline for “grandfathering” would be changed from the previously-ordered July 1, 2005, until August 4, 2005, the date of interlocutory Order No. 29839. In Order No. 29872, the Commission confirmed the criteria it would consider for determining eligibility to the published rates for those QFs in the negotiation queue on August 4, 2005. These criteria are as follows:

- (1) submittal of a signed power purchase agreement to the utility, or
- (2) submittal to the utility of a completed Application for Interconnection Study and payment of fee.

In addition to a finding of existence of one or both of the preceding threshold criteria, the QF must also be able to demonstrate other indicia of substantial progress and project maturity, e.g.,

- (1) a wind study demonstrating a viable site for the project,
- (2) a signed contract for wind turbines,
- (3) arranged financing for the project, and/or
- (4) related progress on the facility permitting and licensing path.

(Order No. 29839, p. 10, August 4, 2005)

VI.

In order to comply with the Commission's order regarding grandfathering, Idaho Power identified 14 wind generating project developers that had contacted Idaho Power regarding a potential wind QF project. By letter dated August 8, 2005, the Company requested that each of the identified QF developers provide Idaho Power information regarding their project that the Company could use to determine whether or not the particular wind QF would meet the criteria for grandfathering described by the Commission. A copy of the letter sent to Salmon Falls is enclosed as Attachment 1. In response to Attachment 1, Salmon Falls provided responses to each of the items identified in Attachment 1. A summary of Salmon Falls' responses is enclosed as Attachment 2.

As noted in Attachment 2, several of Salmon Falls' responses indicated that Salmon Falls was concerned about the confidentiality of documents. Therefore, rather than requiring copies of the documents be provided, Idaho Power reviewed the documents in Salmon Falls' office to confirm that the documents supported Salmon Falls' representations.

VII.

While Idaho Power reviewed Salmon Falls' compliance with all of the criteria identified in Attachment 1, the Company does not expect that a QF must have *completed* all of the criteria to be entitled to grandfather status. The relative weight given to completion of each criterion must be considered on its own merits. For example, one criterion that Idaho Power identified as being entitled to great weight is a signed contract for wind turbines. Based on discussions with QF wind developers and other publicly available information, Idaho Power has determined that the supply of wind turbines is extremely tight and, if a turbine has not been procured, it may be many months before turbines are available. Therefore, possession of a contract that binds a wind turbine manufacturer to deliver the needed wind turbines to the QF within the time periods specified by the QF developer was deemed by Idaho Power to be critical to a determination that a QF was sufficiently mature so as to qualify for grandfathering. The Salmon Falls project has entered into such a contract and Idaho Power has reviewed the contract documents binding the wind turbine manufacturer.

VIII.

Considering and weighing all of the Commission-identified criteria, Idaho Power believes that Salmon Falls is sufficiently far enough along the development path that it should be "grandfathered" to the published rates.

IX.

Salmon Falls has selected November 2006 as the scheduled first energy date and May 2007 as the scheduled operation date for the project. As the Agreement specifies, once a project requests and is assigned an operation date, various terms of

the Agreement are activated, primarily the 90%/110% performance criteria. Prior to the operation date, the Agreement requires that only the monthly variable non-firm price for energy be paid for the energy production from this project. Based on past experience, the Salmon Falls developer has determined that it typically takes a few months to fine tune the turbines at each specific project; therefore, the developer has allowed for this fine tuning time frame in the scheduled first energy and schedule operation date. In the Agreement, various requirements have been placed on Salmon Falls in order for Idaho Power to accept deliveries from this Facility. Idaho Power will monitor compliance with these initial requirements. In addition, Idaho Power will continue to monitor the ongoing requirements through the full term of this Agreement.

X.

Section 22 of the Agreement provides that the Agreement will not become effective until the Commission has approved all of the agreements, terms and conditions and determined that all payments that Idaho Power will make to Salmon Falls for purchases of energy under the Agreement will be allowed as prudently incurred expenses for ratemaking purposes.

XI.

The Agreement, as signed and submitted by the parties hereto, contains non-levelized published avoided cost rates in conformity with applicable IPUC Orders and is enclosed as Attachment 3.

XII.

Service of pleadings, exhibits, orders and other documents relating to this proceeding should be served on the following:

Barton L. Kline, Senior Attorney
Monica B. Moen, Attorney II
Idaho Power Company
P.O. Box 70
Boise, Idaho 83707
bkline@idahopower.com
mmoen@idahopower.com

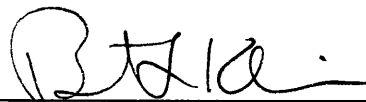
Randy C. Allphin
Contract Administrator
Idaho Power Company
P.O. Box 70
Boise, Idaho 83707
rallphin@idahopower.com

XIII.

NOW, THEREFORE, based on the foregoing, Idaho Power hereby requests that the Commission issue its Order:

- (1) Approving the enclosed Firm Energy Sales Agreement between Idaho Power and Salmon Falls without change or condition; and
- (2) Declaring that all payments for purchase of energy under the Agreement will be allowed as prudently incurred expenses for ratemaking purposes.

Respectfully submitted this 20th day of October, 2005.



BARTON L. KLINE
Attorney for Idaho Power Company

ATTACHMENT 1



Randy C. Allphin
Contract Administrator

August 8, 2005

James Carkulis
Exergy Development Group, LLC
P O Box 5212
Helena, MT 59601

E-mail Copy: mtli@in-tch.com

Original: US Mail

RE: Salmon Falls Wind Park
Request for a PURPA contract for a proposed Wind Generation Facility.

Dear James:

On June 17, 2005, Idaho Power Company (Company) filed a Petition with the Idaho Public Utilities Commission (Commission) requesting a temporary suspension of the Company's obligation to enter into new contracts to purchase energy generated by qualifying wind-powered small power production facilities (QFs) at the published rates.

On August 4, 2005, the Commission issued Order No. 29839 in response to the Petition filed by Idaho Power Company. In Order No. 29839, the Commission ruled that only intermittent wind generation projects with a nameplate rating of 100 kW or less are eligible for the published avoided cost rates. In this Order the Commission also established criteria to assess the eligibility of larger wind generation projects that had commenced the development process prior to July 1, 2005 to receive PURPA contracts containing the published rates. The eligibility criteria for those larger projects, as set out in Order No. 29839, are as follows:

- 1) Submittal of a signed power purchase agreement to the utility no later than July 1, 2005 or submittal of a completed Application for Interconnection Study and payment of study fees to the utility no later than July 1, 2005.

- 2) In addition to the eligibility criteria set out in item 1, to qualify for the published rates the larger QF must also be able to demonstrate other indicia of substantial progress and project maturity. Examples of these items include but are not limited to:
 - a.) A QF certificate for the project
 - b.) Wind study(s) demonstrating a viable site for the project
 - c.) Project and access road site control
 - d.) A signed contract for the supply of wind turbines
 - e.) Arranged financing for the project
 - f.) Progress on facility permitting and licensing

Our records indicate you contacted Idaho Power concerning a PURPA contract for the Salmon Falls Wind Park with an estimated size of 21 MW prior to the issuance of Commission Order No. 29839.

Summarized below are Idaho Power Power Supply's records in regards to the data you have submitted for your proposed wind project and the status of meeting the eligibility criteria as described in Commission Order No. 29839.

Item 1

- a.) Submittal of a signed Purchase Power Agreement

Idaho Power has received a developer originated signed Purchase Power Agreement prior to July 1, 2005.

- b.) Submittal of a completed Application for Interconnection

What is the status of your application for interconnection for your proposed wind project?

While this may seem to be a strange request coming from Idaho Power, Federal Energy Regulatory Commission orders prohibit Idaho Power's Power Supply business unit from obtaining this information directly from the Idaho Power Delivery business unit. Please provide complete interconnection application status information, including when application was made for interconnection and evidence that the required study fees have been paid to Idaho Power Delivery business unit.

- ✓ If your project has submitted one or both of the above-required documents please provide the documentation of the items specified below in Item 2.

- ✓ If neither of the above documents had been submitted to Idaho Power Company prior to July 1, 2005, as specified in the Commission Order, your project is subject to the revised published rate eligibility cap for a qualified intermittent wind projects of 100 kW or smaller.

Item 2

Please provide documentation that demonstrates other indicia of substantial progress and project maturity. Examples of these items include but are not limited to:

- a.) A QF certificate for the project
Idaho Power has on file a copy of your notice of Self Certification dated August 3, 2005.
- b.) Wind study demonstrating a viable site for the project
- c.) Project and access road site control
- d.) A signed contract for the supply of wind turbines
- e.) Arranged financing for the project
- f.) Progress on facility permitting and licensing

If there is other data that you believe indicates that your project was substantially mature or complete as of July 1, 2005, please provide this data at the same time.

Please provide the requested data to Randy Allphin at Idaho Power Company:

US Mail: Idaho Power Company
Attn: Randy Allphin
P O Box 70
Boise, Idaho 83707

Email: Rallphin@idahopower.com

Fax: (208) 433-5163

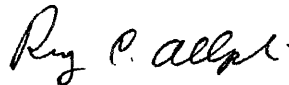
Please mark all Faxes – Attention Randy Allphin and also notify Randy Allphin by e-mail or telephone that a Fax is being sent.

Idaho Power will review the provided data and may request addition information. If it is determined that the project has met the eligibility criteria as established by the Commission, Idaho Power will prepare and provide a draft PURPA agreement for your review. Please note this is not an offer to purchase and no PURPA contract is effective until the Idaho Public Utilities Commission has reviewed it and approved it for ratemaking purposes.

The Commission has set stringent time limits for continued processing of this case. As a result, it is important that we receive your response to this letter no later than **5 PM, Mountain Standard Time, August 15, 2005**. Failure to provide complete information within this time period may mean that your request would not be considered eligible to receive the published rates.

If you have any questions please contact me at your convenience.

Very truly yours,



Randy C. Allphin
Idaho Power Company
Contract Administrator

ATTACHMENT 2

Summary of Compliance Analysis

Salmon Falls

21.00 MW

Twin Falls County

<p>1.) <u>Purchase Power agreement</u> Submittal of a signed power purchase</p> <p style="text-align: center;">And / Or</p> <p><u>Interconnection Application</u> Submittal to the Utility of a completed</p>	<p>Yes, developer provided agreement signed June 17, 2005</p>
<p>2.) <u>Demonstrate other indicia of substantial progress and project maturity</u></p>	<p>Yes, 101.5 MW request filed with IPC on Feb 2005. Fees paid and Feasibility Study completed by IPC.</p>
<p>a. QF Certificate</p>	<p>Filed with FERC 8/3/2005</p>
<p>b. Site Control</p>	<p>8/15/2005 Developer response received, stating all contracts are complete and available for our review upon request.</p> <p>8/23/2005 Company representatives met with developer and reviewed various documents supporting conclusion that adequate site control was in place.</p>
<p>c. Wind Study data</p>	<p>8/15/2005 Developer response received, stating data collected but confidential.</p> <p>8/23/2005 Company representatives met with developer and reviewed various documents indicating wind data had been collected for this project. In addition, the Developer has provided monthly kWh commitments for inclusion in the agreement based upon the c</p>
<p>d. Turbine supply confirmation</p>	<p>8/15/2005 Developer response received, stating all contracts are complete but confidential.</p> <p>8/23/2005 Company representatives met with developer and reviewed the Turbine supply agreement and confirmed that a binding agreement with manufacturer for the supply of turbines is in place for this project.</p>
<p>e. Completed project financing</p>	<p>8/15/2005 Letter received, stating premature to have final financing in place until a PPA is complete. Prior Company experience confirms that ability to obtain firm financial commitments usually require PPA in place. Developer has previously obtained fin</p>
<p>f. Planning and Zoning permit progress</p>	<p>8/15/2005 Letter received, stating initial work begun, but premature to finalize until PPA in place. Company's representatives met with developer and confirmed initial permitting due diligence commenced.</p>

ATTACHMENT 3

FIRM ENERGY SALES AGREEMENT

BETWEEN

IDAHO POWER COMPANY

AND

SALMON FALLS WIND PARK LLC

TABLE OF CONTENTS

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IDAHO PUBLIC
UTILITIES COMMISSION

<u>Article</u>	<u>TITLE</u>
1	Definitions
2	No Reliance on Idaho Power
3	Warranties
4	Conditions to Acceptance of Energy
5	Term and Operation Date
6	Purchase and Sale of Net Energy
7	Purchase Price and Method of Payment
8	Environmental Attributes
9	Facility and Interconnection
10	Disconnection Equipment
11	Metering and Telemetry
12	Records
13	Protection
14	Operations
15	Indemnification and Insurance
16	Force Majeure
17	Land Rights
18	Liability; Dedication
19	Several Obligations
20	Waiver
21	Choice of Laws and Venue
22	Disputes and Default
23	Governmental Authorization
24	Commission Order
25	Successors and Assigns
26	Modification
27	Taxes
28	Notices
29	Additional Terms and Conditions
30	Severability
31	Counterparts
32	Entire Agreement Signatures
	Appendix A
	Appendix B
	Appendix C

FIRM ENERGY SALES AGREEMENT
(10 aMW or Less)

SALMON FALLS WIND PARK LLC

Project Number: 31618100

THIS AGREEMENT, entered into on this 14 day of Oct 2005 between SALMON FALLS WIND PARK, an Idaho limited liability company (Seller), and IDAHO POWER COMPANY, an Idaho corporation (Idaho Power), hereinafter sometimes referred to collectively as "Parties" or individually as "Party."

WITNESSETH:

WHEREAS, Seller will design, construct, own, maintain and operate an electric generation facility; and

WHEREAS, Seller wishes to sell, and Idaho Power is willing to purchase, firm electric energy produced by the Seller's Facility.

THEREFORE, In consideration of the mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

ARTICLE I: DEFINITIONS

As used in this Agreement and the appendices attached hereto, the following terms shall have the following meanings:

- 1.1 "Commission" - The Idaho Public Utilities Commission.
- 1.2 "Contract Year" - The period commencing each calendar year on the same calendar date as the Operation Date and ending 364 days thereafter.
- 1.3 "Designated Dispatch Facility" - Idaho Power's Systems Operations Group, or any subsequent group designated by Idaho Power.
- 1.4 "Disconnection Equipment" - All equipment specified in Schedule 72 and the Generation Interconnection Process and any additional equipment specified in Appendix B.
- 1.5 "Facility" - That electric generation facility described in Appendix B of this Agreement.

- 1.6 "First Energy Date" - The day commencing at 0001 hours, Mountain Time, following the day that Seller has satisfied the requirements of Article IV and the Seller begins delivering energy to Idaho Power's system at the Point of Delivery.
- 1.7 "Generation Interconnection Process" – Idaho Power's generation interconnection application and engineering review process developed to ensure a safe and reliable generation interconnection in compliance with all applicable regulatory requirements, Prudent Electrical Practices and national safety standards.
- 1.8 "Inadvertent Energy" – Electric energy Seller does not intend to generate. Inadvertent energy is more particularly described in paragraph 7.3 of this Agreement.
- 1.9 "Interconnection Facilities" - All equipment specified in Schedule 72 and the Generation Interconnection Process and any additional equipment specified in Appendix B.
- 1.10 "Initial Capacity Determination" – The process by which Idaho Power confirms that under normal or average design conditions the Facility will generate at no more than 10 average MW per month and is therefore eligible to be paid the published rates in accordance with Commission Order No. 29632.
- 1.11 "Losses" – The loss of electrical energy expressed in kilowatt hours (kWh) occurring as a result of the transformation and transmission of energy between the point where the Facility's energy is metered and the point the Facility's energy is delivered to the Idaho Power electrical system. The loss calculation formula will be as specified in Appendix B of this Agreement.
- 1.12 "Market Energy Cost" – Eighty-five percent (85%) of the weighted average of the daily on-peak and off-peak Dow Jones Mid-Columbia Index (Dow Jones Mid-C Index) prices for non-firm energy. If the Dow Jones Mid-Columbia Index price is discontinued by the reporting agency, both Parties will mutually agree upon a replacement index, which is similar to the Dow Jones Mid-Columbia Index. The selected replacement index will be consistent with other similar agreements and a commonly used index by the electrical industry.
- 1.13 "Material Breach" – A Default (paragraph 22.2.1) subject to paragraph 22.2.2.

- 1.14 “Maximum Capacity Amount” – The maximum capacity (MW) of the Facility will be as specified in Appendix B of this Agreement.
- 1.15 “Metering Equipment” - All equipment specified in Schedule 72, the Generation Interconnection Process, this Agreement and any additional equipment specified in Appendix B required to measure, record and telemeter power flows between the Seller's electric generation plant and Idaho Power's system.
- 1.16 “Net Energy” – All of the electric energy produced by the Facility, less Station Use, less Losses, expressed in kilowatt hours (kWh). Seller commits to deliver all Net Energy to Idaho Power at the Point of Delivery for the full term of the Agreement. Net Energy does not include Inadvertent Energy.
- 1.17 “Operation Date” – The day commencing at 0001 hours, Mountain Time, following the day that all requirements of paragraph 5.2 have been completed.
- 1.18 “Point of Delivery” – The location specified in Appendix B, where Idaho Power’s and the Seller’s electrical facilities are interconnected.
- 1.19 “Prudent Electrical Practices” – Those practices, methods and equipment that are commonly and ordinarily used in electrical engineering and operations to operate electric equipment lawfully, safely, dependably, efficiently and economically.
- 1.20 “Scheduled Operation Date” – The date specified in Appendix B when Seller anticipates achieving the Operation Date.
- 1.21 “Schedule 72” – Idaho Power’s Tariff No 101, Schedule 72 or its successor schedules as approved by the Commission.
- 1.22 “Season” – The three periods identified in paragraph 6.2.1 of this Agreement.
- 1.23 “Special Facilities” - Additions or alterations of transmission and/or distribution lines and transformers as described in Appendix B, Schedule 72 or the Generation Interconnection Process required to safely interconnect the Seller's Facility to the Idaho Power system.
- 1.24 “Station Use” – Electric energy that is used to operate equipment that is auxiliary or otherwise related to the production of electricity by the Facility.

- 1.25 “Surplus Energy” – (1) Net Energy produced by the Seller’s Facility and delivered to the Idaho Power electrical system during the month which exceeds 110% of the monthly Net Energy Amount for the corresponding month specified in paragraph 6.2. or (2) If the Net Energy produced by the Seller’s Facility and delivered to the Idaho Power electrical system during the month is less than 90% of the monthly Net Energy Amount for the corresponding month specified in paragraph 6.2, then all Net Energy delivered by the Facility to the Idaho Power electrical system for that given month or (3) All Net Energy produced by the Seller’s Facility and delivered by the Facility to the Idaho Power electrical system prior to the Operation Date.
- 1.26 “Total Cost of the Facility” - The total cost of structures, equipment and appurtenances.

ARTICLE II: NO RELIANCE ON IDAHO POWER

- 2.1 Seller Independent Investigation - Seller warrants and represents to Idaho Power that in entering into this Agreement and the undertaking by Seller of the obligations set forth herein, Seller has investigated and determined that it is capable of performing hereunder and has not relied upon the advice, experience or expertise of Idaho Power in connection with the transactions contemplated by this Agreement.
- 2.2 Seller Independent Experts - All professionals or experts including, but not limited to, engineers, attorneys or accountants, that Seller may have consulted or relied on in undertaking the transactions contemplated by this Agreement have been solely those of Seller.

ARTICLE III: WARRANTIES

- 3.1 No Warranty by Idaho Power - Any review, acceptance or failure to review Seller’s design, specifications, equipment or facilities shall not be an endorsement or a confirmation by Idaho Power and Idaho Power makes no warranties, expressed or implied, regarding any aspect of Seller’s design, specifications, equipment or facilities, including, but not limited to, safety, durability, reliability, strength, capacity, adequacy or economic feasibility.
- 3.2 Qualifying Facility Status - Seller warrants that the Facility is a “Qualifying Facility,” as that term

is used and defined in 18 CFR §292.207. After initial qualification, Seller will take such steps as may be required to maintain the Facility's Qualifying Facility status during the term of this Agreement and Seller's failure to maintain Qualifying Facility status will be a Material Breach of this Agreement. Idaho Power reserves the right to review the Seller's Qualifying Facility status and associated support and compliance documents at anytime during the term of this Agreement.

ARTICLE IV: CONDITIONS TO ACCEPTANCE OF ENERGY

- 4.1 Prior to the First Energy Date and as a condition of Idaho Power's acceptance of deliveries of energy from the Seller, Seller shall:
- 4.1.1 Submit proof to Idaho Power that all licenses, permits or approvals necessary for Seller's operations have been obtained from applicable federal, state or local authorities, including, but not limited to, evidence of compliance with Subpart B, 18 CFR 292.207.
- 4.1.2 Opinion of Counsel - Submit to Idaho Power an Opinion Letter signed by an attorney admitted to practice and in good standing in the State of Idaho providing an opinion that Seller's licenses, permits and approvals as set forth in paragraph 4.1.1 above are legally and validly issued, are held in the name of the Seller and, based on a reasonable independent review, counsel is of the opinion that Seller is in substantial compliance with said permits as of the date of the Opinion Letter. The Opinion Letter will be in a form acceptable to Idaho Power and will acknowledge that the attorney rendering the opinion understands that Idaho Power is relying on said opinion. Idaho Power's acceptance of the form will not be unreasonably withheld. The Opinion Letter will be governed by and shall be interpreted in accordance with the legal opinion accord of the American Bar Association Section of Business Law (1991).
- 4.1.3 Initial Capacity Determination - Submit to Idaho Power such data as Idaho Power may reasonably require to perform the Initial Capacity Determination. Such data will include but not be limited to, equipment specifications, prime mover data, resource characteristics, normal and/or average operating design conditions and Station Use data.

Upon receipt of this information, Idaho Power will review the provided data and if necessary, request additional data to complete the Initial Capacity Determination within a reasonable time.

- 4.1.4 Engineer's Certifications - Submit an executed Engineer's Certification of Design & Construction Adequacy and an Engineer's Certification of Operations and Maintenance (O&M) Policy as described in Commission Order No. 21690. These certificates will be in the form specified in Appendix C but may be modified to the extent necessary to recognize the different engineering disciplines providing the certificates.
- 4.1.5 Insurance - Submit written proof to Idaho Power of all insurance required in Article XV.
- 4.1.6 Interconnection - Provide written proof to Idaho Power that all Schedule 72 and Generation Interconnection Process requirements have been completed.
- 4.1.7 Written Acceptance - Request and obtain written confirmation from Idaho Power that all conditions to acceptance of energy have been fulfilled. Such written confirmation shall be provided within a commercially reasonable time following the Seller's request and will not be unreasonably withheld by Idaho Power.

ARTICLE V: TERM AND OPERATION DATE

- 5.1 Term - Subject to the provisions of paragraph 5.2 below, this Agreement shall become effective on the date first written and shall continue in full force and effect for a period of twenty (20) Contract Years from the Operation Date.
- 5.2 Operation Date - The Operation Date may occur only after the Facility has achieved all of the following:
 - a) Achieved the First Energy Date.
 - b) Commission approval of this Agreement in a form acceptable to Idaho Power has been received.
 - c) Seller has demonstrated to Idaho Power's satisfaction that the Facility is complete and able to provide energy in a consistent, reliable and safe manner and has requested an

Operation Date in written form.

- d) Seller has requested an Operation Date from Idaho Power in a written format.
- e) Seller has received written confirmation from Idaho Power of the Operation Date.

This confirmation will not be unreasonably withheld by Idaho Power.

5.3 Seller's failure to achieve the Operation Date within ten (10) months of the Scheduled Operation Date will be an event of default.

ARTICLE VI: PURCHASE AND SALE OF NET ENERGY

6.1 Delivery and Acceptance of Net Energy - Except when either Party's performance is excused as provided herein, Idaho Power will purchase and Seller will sell all of the Net Energy to Idaho Power at the Point of Delivery. All Inadvertent Energy produced by the Facility will also be delivered by the Seller to Idaho Power at the Point of Delivery. At no time will the total amount of Net Energy and/or Inadvertent Energy produced by the Facility and delivered by the Seller to the Point of Delivery exceed the Maximum Capacity Amount.

6.2 Net Energy Amounts - Seller intends to produce and deliver Net Energy in the following monthly amounts:

6.2.1 Initial Year Monthly Net Energy Amounts:

	<u>Month</u>	<u>kWh</u>
Season 1	March	5,447,744
	April	5,565,060
	May	5,027,172
Season 2	July	4,065,190
	August	3,772,578
	November	4,041,053
	December	5,330,750
Season 3	June	4,700,332
	September	4,470,040
	October	4,757,415
	January	4,203,187
	February	3,436,421

6.2.2 Ongoing Monthly Net Energy Amounts - Seller shall initially provide Idaho Power with one year of monthly generation estimates (Initial Year Monthly Net Energy Amounts) and beginning at the end of month nine and every three months thereafter provide Idaho Power with an additional three months of forward generation estimates. This information will be provided to Idaho Power by written notice in accordance with paragraph 28.1, no later than 5:00 PM of the 5th day following the end of the previous month. If the Seller does not provide the Ongoing Monthly Net Energy amounts in a timely manner, Idaho Power will use the most recent 3 months of the Initial Year Monthly Net Energy Amounts specified in paragraph 6.2.1 for the next 3 months of monthly Net Energy amounts.

6.2.3 Seller's Adjustment of Net Energy Amount –

6.2.3.1 No later than the Operation Date, by written notice given to Idaho Power in accordance with paragraph 28.1, the Seller may revise all of the previously provided Initial Year Monthly Net Energy Amounts.

6.2.3.2 Beginning with the end of the 3rd month after the Operation Date and at the end of every third month thereafter: (1) the Seller may not revise the immediate next three months of previously provided Net Energy Amounts, (2) but by written notice given to Idaho Power in accordance with paragraph 28.1, no later than 5:00 PM of the 5th day following the end of the previous month, the Seller may revise all other previously provided Net Energy Amounts. Failure to provide timely written notice of changed amounts will be deemed to be an election of no change.

6.2.4 Idaho Power Adjustment of Net Energy Amount – If Idaho Power is excused from accepting the Seller's Net Energy as specified in paragraph 14.2.1 or if the Seller declares a Suspension of Energy Deliveries as specified in paragraph 14.3.1 and the Seller's declared Suspension of Energy Deliveries is accepted by Idaho Power, the Net Energy

Amount as specified in paragraph 6.2 for the specific month in which the reduction or suspension under paragraph 14.2.1 or 14.3.1 occurs will be reduced in accordance with the following:

Where:

NEA = Current Month's Net Energy Amount (Paragraph 6.2)

SGU = a.) If Idaho Power is excused from accepting the Seller's Net Energy as specified in paragraph 14.2.1 this value will be equal to the percentage of curtailment as specified by Idaho Power multiplied by the TGU as defined below.

b.) If the Seller declares a Suspension of Energy Deliveries as specified in paragraph 14.3.1 this value will be the sum of the individual generation units size ratings as specified in Appendix B that are impacted by the circumstances causing the Seller to declare a Suspension of Energy Deliveries.

TGU = Sum of all of the individual generator ratings of the generation units at this Facility as specified in Appendix B of this agreement.

RSH = Actual hours the Facility's Net Energy deliveries were either reduced or suspended under paragraph 14.2.1 or 14.3.1

TH = Actual total hours in the current month

Resulting formula being:

$$\text{Adjusted Net Energy Amount} = \text{NEA} - \left(\left(\frac{\text{SGU}}{\text{TGU}} \times \text{NEA} \right) \times \left(\frac{\text{RSH}}{\text{TH}} \right) \right)$$

This Adjusted Net Energy Amount will be used in applicable Surplus Energy calculations for only the specific month in which Idaho Power was excused from accepting the Seller's Net Energy or the Seller declared a Suspension of Energy.

6.3 Unless excused by an event of Force Majeure, Seller's failure to deliver Net Energy in any Contract Year in an amount equal to at least ten percent (10%) of the sum of the Initial Year Net Energy Amounts as specified in paragraph 6.2 shall constitute an event of default.

ARTICLE VII: PURCHASE PRICE AND METHOD OF PAYMENT

7.1 Net Energy Purchase Price – For all Net Energy, Idaho Power will pay the non-levelized energy price in accordance with Commission Order 29646 with seasonalization factors applied:

<u>Year</u>	<u>Season 1 - (73.50 %)</u> <u>Mills/kWh</u>	<u>Season 2 - (120.00 %)</u> <u>Mills/kWh</u>	<u>Season 3 - (100.00 %)</u> <u>Mills/kWh</u>
2005	37.00	60.41	50.34
2006	37.85	61.80	51.50
2007	38.73	63.23	52.69
2008	39.62	64.68	53.90
2009	40.53	66.17	55.14
2010	41.46	67.69	56.41
2011	42.42	69.25	57.71
2012	43.39	70.85	59.04
2013	44.39	72.48	60.40
2014	45.42	74.16	61.80
2015	46.47	75.86	63.22
2016	47.54	77.62	64.68
2017	48.63	79.40	66.17
2018	49.76	81.24	67.70
2019	50.91	83.11	69.26
2020	52.07	85.02	70.85
2021	53.28	86.99	72.49
2022	54.51	88.99	74.16
2023	55.76	91.04	75.87
2024	57.05	93.14	77.62
2025	58.37	95.29	79.41
2026	59.72	97.50	81.25

7.2 Surplus Energy Price - For all Surplus Energy, Idaho Power shall pay to the Seller the current month's Market Energy Cost or the Net Energy Purchase Price specified in paragraph 7.1, whichever is lower.

7.3 Inadvertent Energy –

7.3.1 Inadvertent Energy is electric energy produced by the Facility, expressed in kWh, which the Seller delivers to Idaho Power at the Point of Delivery that exceeds 10,000 kW multiplied by the hours in the specific month in which the energy was delivered. (For example January contains 744 hours. 744 hours times 10,000 kW = 7,440,000 kWh. Energy delivered in January in excess of 7,440, 000 kWh in this example would be

Inadvertent Energy.)

- 7.3.2 Although Seller intends to design and operate the Facility to generate no more than 10 average MW and therefore does not intend to generate Inadvertent Energy, Idaho Power will accept Inadvertent Energy that does not exceed the Maximum Capacity Amount but will not purchase or pay for Inadvertent Energy
- 7.4 Payment Due Date – Energy payments to the Seller will be disbursed within 30 days of the date which Idaho Power receives and accepts the documentation of the monthly Net Energy and Inadvertent Energy actually produced by the Seller’s Facility and delivered to Idaho Power as specified in Appendix A.
- 7.5 Continuing Jurisdiction of the Commission – This Agreement is a special contract and, as such, the rates, terms and conditions contained in this Agreement will be construed in accordance with Idaho Power Company v. Idaho Public Utilities Commission and Afton Energy, Inc., 107 Idaho 781, 693 P.2d 427 (1984); Idaho Power Company v. Idaho Public Utilities Commission, 107 Idaho 1122, 695 P.2d 1 261 (1985); Afton Energy, Inc. v. Idaho Power Company, 111 Idaho 925, 729 P.2d 400 (1986); Section 210 of the Public Utilities Regulatory Policies Act of 1978 and 18 CFR §292.303-308.

ARTICLE VIII: ENVIRONMENTAL ATTRIBUTES

- 8.1 Idaho Power waives any claim to ownership of Environmental Attributes. Environmental Attributes include, but are not limited to, Green Tags, Green Certificates, Renewable Energy Credits (RECs) and Tradable Renewable Certificates (TRCs) directly associated with the production of energy from the Seller’s Facility.

ARTICLE IX: FACILITY AND INTERCONNECTION

- 9.1 Design of Facility - Seller will design, construct, install, own, operate and maintain the Facility and any Seller-owned Interconnection Facilities so as to allow safe and reliable generation and delivery of Net Energy and Inadvertent Energy to the Idaho Power Point of Delivery for the full

term of the Agreement.

- 9.2 Interconnection Facilities - Except as specifically provided for in this Agreement, the required Interconnection Facilities will be in accordance with Schedule 72, the Generation Interconnection Process and Appendix B. The Seller is responsible for all costs associated with this equipment as specified in Schedule 72 and the Generation Interconnection Process, including but not limited to initial costs incurred by Idaho Power for equipment costs, installation costs and ongoing monthly Idaho Power operations and maintenance expenses.

ARTICLE X: DISCONNECTION EQUIPMENT

- 10.1 Except as specifically provided for in this Agreement, the required Disconnection Equipment will be in accordance with Schedule 72, the Generation Interconnection Process and Appendix B. The Seller is responsible for all costs associated with this equipment as specified in Schedule 72 and the Generation Interconnection Process, including but not limited to initial costs incurred by Idaho Power for equipment costs, installation costs and Idaho Power ongoing monthly operations and monthly maintenance expenses.

ARTICLE XI: METERING AND TELEMETRY

- 11.1 Metering and Telemetry - Idaho Power shall, for the account of Seller, provide, install, and maintain Metering Equipment to be located at a mutually agreed upon location to record and measure power flows to Idaho Power in accordance with Schedule 72, Generation Interconnection Process and Appendix B of this Agreement. The Metering Equipment will be at the location and the type required to measure, record and report the Facility's Net Energy, Station Use, Inadvertent Energy and maximum energy deliveries (kW) in a manner to provide Idaho Power adequate energy measurement data to administer this Agreement and to integrate this Facility's energy production into the Idaho Power electrical system. All Metering Equipment and installation costs shall be borne by Seller, including costs incurred by Idaho Power for inspecting and testing such equipment at reasonable intervals at Idaho Power's actual cost of providing this

Metering Equipment and services. The Metering Equipment shall be at the location described in Appendix B of this Agreement. All meters used to determine the billing hereunder shall be sealed and the seals shall be broken only by Idaho Power when the meters are to be inspected, tested or adjusted.

11.2 Meter Inspection - Idaho Power shall inspect installations annually and test meters on the applicable periodic test schedule relevant to the equipment installed as specified in Appendix B of this Agreement. If requested by Seller, Idaho Power shall make a special inspection or test of a meter and Seller shall pay the reasonable costs of such special inspection. Both Parties shall be notified of the time when any inspection or test shall take place, and each Party may have representatives present at the test or inspection. If a meter is found to be inaccurate or defective, it shall be adjusted, repaired or replaced, at Idaho Power's expense in order to provide accurate metering. If a meter fails to register, or if the measurement made by a meter during a test varies by more than two percent (2 %) from the measurement made by the standard meter used in the test, adjustment (either upward or downward) to the payments Seller has received shall be made to correct those payments affected by the inaccurate meter for the actual period during which inaccurate measurements were made. If the actual period cannot be determined, corrections to the payments will be based on the shorter of (1) a period equal to one-half the time from the date of the last previous test of the meter to the date of the test which established the inaccuracy of the meter; or (2) six (6) months.

11.3 Telemetry – Idaho Power will install, operate and maintain at Seller's expense metering, communications and telemetry equipment which will be capable of providing Idaho Power with continuous instantaneous telemetry of Seller's Net Energy and Inadvertent Energy produced and delivered to the Idaho Power Point of Delivery to Idaho Power's Designated Dispatch Facility.

ARTICLE XII - RECORDS

12.1 Maintenance of Records - Seller shall maintain at the Facility or such other location mutually acceptable to the Parties adequate total generation, Net Energy, Station Use, Inadvertent Energy

and maximum generation (kW) records in a form and content recommended by Idaho Power.

- 12.2 Inspection - Either Party, after reasonable notice to the other Party, shall have the right, during normal business hours, to inspect and audit any or all generation, Net Energy, Station Use, Inadvertent Energy and maximum generation (kW) records pertaining to the Seller's Facility.

ARTICLE XIII - PROTECTION

- 13.1 Seller shall construct, operate and maintain the Facility and Seller-furnished Interconnection Facilities in accordance with Schedule 72, the Generation Interconnection Process, Appendix B of this Agreement, Prudent Electrical Practices, the National Electrical Code, the National Electrical Safety Code and any other applicable local, state and federal codes. Seller acknowledges receipt of the Generation Interconnection Process. If, in the reasonable opinion of Idaho Power, Seller's operation of the Facility or Interconnection Facilities is unsafe or may otherwise adversely affect Idaho Power's equipment, personnel or service to its customers, Idaho Power may physically interrupt the flow of energy from the Facility as specified within Schedule 72, the Generation Interconnection Process or take such other reasonable steps as Idaho Power deems appropriate. Except in the case of an emergency, Idaho Power will attempt to notify Seller of such interruption prior to its occurrence as provided in paragraph 14.9. Seller shall provide and maintain adequate protective equipment sufficient to prevent damage to the Facility and Seller-furnished Interconnection Facilities. In some cases, some of Seller's protective relays will provide back-up protection for Idaho Power's facilities. In that event, Idaho Power will test such relays annually and Seller will pay the actual cost of such annual testing.

ARTICLE XIV - OPERATIONS

- 14.1 Communications - Idaho Power and the Seller shall maintain appropriate operating communications through Idaho Power's Designated Dispatch Facility in accordance with Appendix A of this Agreement.

14.2 Energy Acceptance –

14.2.1 Idaho Power shall be excused from accepting and paying for Net Energy or accepting Inadvertent Energy produced by the Facility and delivered by the Seller to the Point of Delivery, if it is prevented from doing so by an event of Force Majeure, or if Idaho Power determines that curtailment, interruption or reduction of Net Energy or Inadvertent Energy deliveries is necessary because of line construction or maintenance requirements, emergencies, electrical system operating conditions on its system or as otherwise required by Prudent Electrical Practices. If, for reasons other than an event of Force Majeure, Idaho Power requires such a curtailment, interruption or reduction of Net Energy deliveries for a period that exceeds twenty (20) days, beginning with the twenty-first day of such interruption, curtailment or reduction, Seller will be deemed to be delivering Net Energy at a rate equivalent to the pro rata daily average of the amounts specified for the applicable month in paragraph 6.2. Idaho Power will notify Seller when the interruption, curtailment or reduction is terminated.

14.2.2 If, in the reasonable opinion of Idaho Power, Seller's operation of the Facility or Interconnection Facilities is unsafe or may otherwise adversely affect Idaho Power's equipment, personnel or service to its customers, Idaho Power may physically interrupt the flow of energy from the Facility as specified within Schedule 72 or take such other reasonable steps as Idaho Power deems appropriate.

14.2.3 Under no circumstances will the Seller deliver Net Energy and/or Inadvertent Energy from the Facility to the Point of Delivery in an amount that exceeds the Maximum Capacity Amount. Seller's failure to limit deliveries to the Maximum Capacity Amount will be a Material Breach of this Agreement.

14.3 Seller Declared Suspension of Energy Deliveries

14.3.1 If the Seller's Facility experiences a forced outage due to equipment failure which is not caused by an event of Force Majeure or by neglect, disrepair or lack of adequate preventative maintenance of the Seller's Facility, Seller may, after giving notice as

provided in paragraph 14.3.2 below, temporarily suspend all deliveries of Net Energy to Idaho Power from the Facility or from individual generation unit(s) within the Facility impacted by the forced outage for a period of not less than 48 hours to correct the forced outage condition ("Declared Suspension of Energy Deliveries"). The Seller's Declared Suspension of Energy Deliveries will begin at the start of the next full hour following the Seller's telephone notification as specified in paragraph 14.3.2 and will continue for the time as specified (not less than 48 hours) in the written notification provided by the Seller. In the month(s) in which the Declared Suspension of Energy occurred, the Net Energy Amount will be adjusted as specified in paragraph 6.2.4.

14.3.2 If the Seller desires to initiate a Declared Suspension of Energy Deliveries as provided in paragraph 14.3.1, the Seller will notify the Designated Dispatch Facility by telephone. The beginning hour of the Declared Suspension of Energy Deliveries will be at the earliest the next full hour after making telephone contact with Idaho Power. The Seller will, within 24 hours after the telephone contact, provide Idaho Power a written notice in accordance with Article XXVIII that will contain the beginning hour and duration of the Declared Suspension of Energy Deliveries and a description of the conditions that caused the Seller to initiate a Declared Suspension of Energy Deliveries. Idaho Power will review the documentation provided by the Seller to determine Idaho Power's acceptance of the described forced outage as qualifying for a Declared Suspension of Energy Deliveries as specified in paragraph 14.3.1. Idaho Power's acceptance of the Seller's forced outage as an acceptable forced outage will be based upon the clear documentation provided by the Seller that the forced outage is not due to an event of Force Majeure or by neglect, disrepair or lack of adequate preventative maintenance of the Seller's Facility.

14.5 Voltage Levels - Seller, in accordance with Prudent Electrical Practices shall minimize voltage fluctuations and maintain voltage levels acceptable to Idaho Power. Idaho Power may, in accordance with Prudent Electrical Practices, upon one hundred eighty (180) days' notice to the Seller, change its nominal operating voltage level by more than ten percent (10%) at the Point of

Delivery, in which case Seller shall modify, at Idaho Power's expense, Seller's equipment as necessary to accommodate the modified nominal operating voltage level.

- 14.6 Generator Ramping - Idaho Power, in accordance with Prudent Electrical Practices, shall have the right to limit the rate that generation is changed at startup, during normal operation or following reconnection to Idaho Power's electrical system. Generation ramping may be required to permit Idaho Power's voltage regulation equipment time to respond to changes in power flow.
- 14.7 Scheduled Maintenance – On or before January 31 of each calendar year, Seller shall submit a written proposed maintenance schedule of significant Facility maintenance for that calendar year and Idaho Power and Seller shall mutually agree as to the acceptability of the proposed schedule. The Parties determination as to the acceptability of the Seller's timetable for scheduled maintenance will take into consideration Prudent Electrical Practices, Idaho Power system requirements and the Seller's preferred schedule. Neither Party shall unreasonably withhold acceptance of the proposed maintenance schedule.
- 14.8 Maintenance Coordination - The Seller and Idaho Power shall, to the extent practical, coordinate their respective line and Facility maintenance schedules such that they occur simultaneously.
- 14.9 Contact Prior to Curtailment - Idaho Power will make a reasonable attempt to contact the Seller prior to exercising its rights to curtail, interrupt or reduce deliveries from the Seller's Facility. Seller understands that in the case of emergency circumstances, real time operations of the electrical system, and/or unplanned events Idaho Power may not be able to provide notice to the Seller prior to interruption, curtailment, or reduction of electrical energy deliveries to Idaho Power.

ARTICLE XV: INDEMNIFICATION AND INSURANCE

- 15.1 Indemnification - Each Party shall agree to hold harmless and to indemnify the other Party, its officers, agents, affiliates, subsidiaries, parent company and employees against all loss, damage, expense and liability to third persons for injury to or death of person or injury to property, proximately caused by the indemnifying Party's construction, ownership, operation or

maintenance of, or by failure of, any of such Party's works or facilities used in connection with this Agreement. The indemnifying Party shall, on the other Party's request, defend any suit asserting a claim covered by this indemnity. The indemnifying Party shall pay all costs, including reasonable attorney fees that may be incurred by the other Party in enforcing this indemnity.

15.2 Insurance - During the term of this Agreement, Seller shall secure and continuously carry the following insurance coverage:

15.2.1 Comprehensive General Liability Insurance for both bodily injury and property damage with limits equal to \$1,000,000, each occurrence, combined single limit. The deductible for such insurance shall be consistent with current Insurance Industry Utility practices for similar property.

15.2.2 The above insurance coverage shall be placed with an insurance company with an A.M. Best Company rating of A- or better and shall include:

- (a) An endorsement naming Idaho Power as an additional insured and loss payee as applicable; and
- (b) A provision stating that such policy shall not be canceled or the limits of liability reduced without sixty (60) days' prior written notice to Idaho Power.

15.3 Seller to Provide Certificate of Insurance - As required in paragraph 4.1.5 herein and annually thereafter, Seller shall furnish Idaho Power a certificate of insurance, together with the endorsements required therein, evidencing the coverage as set forth above.

15.4 Seller to Notify Idaho Power of Loss of Coverage - If the insurance coverage required by paragraph 15.2 shall lapse for any reason, Seller will immediately notify Idaho Power in writing. The notice will advise Idaho Power of the specific reason for the lapse and the steps Seller is taking to reinstate the coverage. Failure to provide this notice and to expeditiously reinstate or replace the coverage will constitute a Material Breach of this Agreement.

ARTICLE XVI. FORCE MAJEURE

16.1 As used in this Agreement, "Force Majeure" or "an event of Force Majeure" means any cause

beyond the control of the Seller or of Idaho Power which, despite the exercise of due diligence, such Party is unable to prevent or overcome. Force Majeure includes, but is not limited to, acts of God, fire, flood, storms, wars, hostilities, civil strife, strikes and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, or changes in law or regulation occurring after the Operation Date, which, by the exercise of reasonable foresight such party could not reasonably have been expected to avoid and by the exercise of due diligence, it shall be unable to overcome. If either Party is rendered wholly or in part unable to perform its obligations under this Agreement because of an event of Force Majeure, both Parties shall be excused from whatever performance is affected by the event of Force Majeure, provided that:

- (1) The non-performing Party shall, as soon as is reasonably possible after the occurrence of the Force Majeure, give the other Party written notice describing the particulars of the occurrence.
- (2) The suspension of performance shall be of no greater scope and of no longer duration than is required by the event of Force Majeure.
- (3) No obligations of either Party which arose before the occurrence causing the suspension of performance and which could and should have been fully performed before such occurrence shall be excused as a result of such occurrence.

ARTICLE XVII: LAND RIGHTS

- 17.1 Seller to Provide Access - Seller hereby grants to Idaho Power for the term of this Agreement all necessary rights-of-way and easements to install, operate, maintain, replace, and remove Idaho Power's Metering Equipment, Interconnection Equipment, Disconnection Equipment, Protection Equipment and other Special Facilities necessary or useful to this Agreement, including adequate and continuing access rights on property of Seller. Seller warrants that it has procured sufficient easements and rights-of-way from third parties so as to provide Idaho Power with the access described above. All documents granting such easements or rights-of-way shall be subject to

Idaho Power's approval and in recordable form.

- 17.2 Use of Public Rights-of-Way - The Parties agree that it is necessary to avoid the adverse environmental and operating impacts that would occur as a result of duplicate electric lines being constructed in close proximity. Therefore, subject to Idaho Power's compliance with paragraph 17.4, Seller agrees that should Seller seek and receive from any local, state or federal governmental body the right to erect, construct and maintain Seller-furnished Interconnection Facilities upon, along and over any and all public roads, streets and highways, then the use by Seller of such public right-of-way shall be subordinate to any future use by Idaho Power of such public right-of-way for construction and/or maintenance of electric distribution and transmission facilities and Idaho Power may claim use of such public right-of-way for such purposes at any time. Except as required by paragraph 17.4, Idaho Power shall not be required to compensate Seller for exercising its rights under this paragraph 17.2.
- 17.3 Joint Use of Facilities - Subject to Idaho Power's compliance with paragraph 17.4, Idaho Power may use and attach its distribution and/or transmission facilities to Seller's Interconnection Facilities, may reconstruct Seller's Interconnection Facilities to accommodate Idaho Power's usage or Idaho Power may construct its own distribution or transmission facilities along, over and above any public right-of-way acquired from Seller pursuant to paragraph 17.2, attaching Seller's Interconnection Facilities to such newly constructed facilities. Except as required by paragraph 17.4, Idaho Power shall not be required to compensate Seller for exercising its rights under this paragraph 17.3.
- 17.4 Conditions of Use - It is the intention of the Parties that the Seller be left in substantially the same condition, both financially and electrically, as Seller existed prior to Idaho Power's exercising its rights under this Article XVII. Therefore, the Parties agree that the exercise by Idaho Power of any of the rights enumerated in paragraphs 17.2 and 17.3 shall: (1) comply with all applicable laws, codes and Prudent Electrical Practices, (2) equitably share the costs of installing, owning and operating jointly used facilities and rights-of-way. If the Parties are unable to agree on the method of apportioning these costs, the dispute will be submitted to the Commission for

resolution and the decision of the Commission will be binding on the Parties, and (3) shall provide Seller with an interconnection to Idaho Power's system of equal capacity and durability as existed prior to Idaho Power exercising its rights under this Article XVII.

ARTICLE XVIII: LIABILITY; DEDICATION

- 18.1 Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public or affect the status of Idaho Power as an independent public utility corporation or Seller as an independent individual or entity.

ARTICLE XIX: SEVERAL OBLIGATIONS

- 19.1 Except where specifically stated in this Agreement to be otherwise, the duties, obligations and liabilities of the Parties are intended to be several and not joint or collective. Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or impose a trust or partnership duty, obligation or liability on or with regard to either Party. Each Party shall be individually and severally liable for its own obligations under this Agreement.

ARTICLE XX: WAIVER

- 20.1 Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or other matter.

ARTICLE XXI: CHOICE OF LAWS AND VENUE

- 21.1 This Agreement shall be construed and interpreted in accordance with the laws of the State of Idaho without reference to its choice of law provisions.
- 21.2 Venue for any litigation arising out of or related to this Agreement will lie in the District Court of

the Fourth Judicial District of Idaho in and for the County of Ada.

ARTICLE XXII: DISPUTES AND DEFAULT

- 22.1 Disputes - All disputes related to or arising under this Agreement, including, but not limited to, the interpretation of the terms and conditions of this Agreement, will be submitted to the Commission for resolution.
- 22.2 Notice of Default -
- 22.2.1 Defaults. If either Party fails to perform any of the terms or conditions of this Agreement (an “event of default”), the nondefaulting Party shall cause notice in writing to be given to the defaulting Party, specifying the manner in which such default occurred. If the defaulting Party shall fail to cure such default within the sixty (60) days after service of such notice, or if the defaulting Party reasonably demonstrates to the other Party that the default can be cured within a commercially reasonable time but not within such sixty (60) day period and then fails to diligently pursue such cure, then, the nondefaulting Party may, at its option, terminate this Agreement and/or pursue its legal or equitable remedies.
- 22.2.2 Material Breaches – The notice and cure provisions in paragraph 22.2.1 do not apply to defaults identified in this Agreement as Material Breaches. Material Breaches must be cured as expeditiously as possible following occurrence of the breach.
- 22.3 Security for Performance - Prior to the Operation Date and thereafter for the full term of this Agreement, Seller will provide Idaho Power with the following:
- 22.3.1 Insurance - Evidence of compliance with the provisions of paragraph 15.2. If Seller fails to comply, such failure will be a Material Breach and may only be cured by Seller supplying evidence that the required insurance coverage has been replaced or reinstated;
- 22.3.2 Engineer’s Certifications - Every three (3) years after the Operation Date, Seller will supply Idaho Power with a Certification of Ongoing Operations and Maintenance (O

& M) from a Registered Professional Engineer licensed in the State of Idaho, which Certification of Ongoing O & M shall be in the form specified in Appendix C. Seller's failure to supply the required certificate will be an event of default. Such a default may only be cured by Seller providing the required certificate; and

22.3.3 Licenses and Permits - During the full term of this Agreement, Seller shall maintain compliance with all permits and licenses described in paragraph 4.1.1 of this Agreement. In addition, Seller will supply Idaho Power with copies of any new or additional permits or licenses. At least every fifth Contract Year, Seller will update the documentation described in Paragraph 4.1.1. If at any time Seller fails to maintain compliance with the permits and licenses described in paragraph 4.1.1 or to provide the documentation required by this paragraph, such failure will be an event of default and may only be cured by Seller submitting to Idaho Power evidence of compliance from the permitting agency.

ARTICLE XXIII: GOVERNMENTAL AUTHORIZATION

23.1 This Agreement is subject to the jurisdiction of those governmental agencies having control over either Party of this Agreement.

ARTICLE XXIV: COMMISSION ORDER

24.1 This Agreement shall become finally effective upon the Commission's approval of all terms and provisions hereof without change or condition and declaration that all payments to be made to Seller hereunder shall be allowed as prudently incurred expenses for ratemaking purposes.

ARTICLE XXV: SUCCESSORS AND ASSIGNS

25.1 This Agreement and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties hereto, except that no assignment hereof by either Party shall become effective without the written consent of both Parties being

first obtained. Such consent shall not be unreasonably withheld. Notwithstanding the foregoing, any party which Idaho Power may consolidate, or into which it may merge, or to which it may convey or transfer substantially all of its electric utility assets, shall automatically, without further act, and without need of consent or approval by the Seller, succeed to all of Idaho Power's rights, obligations and interests under this Agreement. This article shall not prevent a financing entity with recorded or secured rights from exercising all rights and remedies available to it under law or contract. Idaho Power shall have the right to be notified by the financing entity that it is exercising such rights or remedies.

ARTICLE XXVI: MODIFICATION

- 26.1 No modification to this Agreement shall be valid unless it is in writing and signed by both Parties and subsequently approved by the Commission.

ARTICLE XXVII: TAXES

- 27.1 Each Party shall pay before delinquency all taxes and other governmental charges which, if failed to be paid when due, could result in a lien upon the Facility or the Interconnection Facilities.

ARTICLE XXVIII: NOTICES

- 28.1 All written notices under this agreement shall be directed as follows and shall be considered delivered when deposited in the U. S. Mail, first-class postage prepaid, as follows:

To Seller: Salmon Falls Wind Park, LLC
Attn: James T. Carkulis
515 N 27th Street
P.O. Box 7218
Boise, Idaho 83702

To Idaho Power:

Original document to:

Vice President, Power Supply
Idaho Power Company
P O Box 70
Boise, Idaho 83707

Copy of document to:

Cogeneration and Small Power Production
Idaho Power Company
P O Box 70
Boise, Idaho 83707

ARTICLE XXIX: ADDITIONAL TERMS AND CONDITIONS

29.1 This Agreement includes the following appendices, which are attached hereto and included by reference:

Appendix A	-	Generation Scheduling and Reporting
Appendix B	-	Facility and Point of Delivery
Appendix C	-	Engineer's Certifications

ARTICLE XXX: SEVERABILITY

30.1 The invalidity or unenforceability of any term or provision of this Agreement shall not affect the validity or enforceability of any other terms or provisions and this Agreement shall be construed in all other respects as if the invalid or unenforceable term or provision were omitted.

ARTICLE XXXI: COUNTERPARTS

31.1 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

ARTICLE XXXII: ENTIRE AGREEMENT

32.1 This Agreement constitutes the entire Agreement of the Parties concerning the subject matter

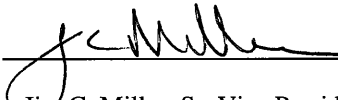
hereof and supersedes all prior or contemporaneous oral or written agreements between the Parties concerning the subject matter hereof.

IN WITNESS WHEREOF, The Parties hereto have caused this Agreement to be executed in their respective names on the dates set forth below:

Idaho Power Company

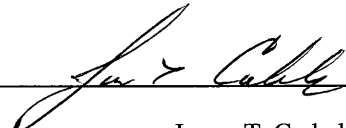
Salmon Falls Wind Park L.L.C.

By



Jim C. Miller, Sr. Vice President, Power Supply

By



James T. Carkulis

Dated

10/11/05

"Idaho Power"

Dated

10/11/05

"Seller"

APPENDIX A

A -1 MONTHLY POWER PRODUCTION AND SWITCHING REPORT

At the end of each month the following required documentation will be submitted to:

Idaho Power Company
Attn: Cogeneration and Small Power Production
P O Box 70
Boise, Idaho 83707

The Meter readings required on this report will be the reading on the Idaho Power Meter Equipment measuring the Facility's total energy production, Station Usage, Inadvertent Energy delivered to Idaho Power and the maximum generated energy (kW) as recorded on the Meter Equipment and/or any other required energy measurements to adequately administer this Agreement.

Idaho Power Company

Cogeneration and Small Power Production

MONTHLY POWER PRODUCTION AND SWITCHING REPORT

Month _____ Year _____

Project Name _____ Project Number: _____
 Address _____ Phone Number: _____
 City _____ State _____ Zip _____

	<u>Facility Output</u>	<u>Station Usage</u>	<u>Station Usage</u>	<u>Metered Maximum Generation</u>
Meter Number:	_____	_____	_____	kW
End of Month kWh Meter Reading:	_____	_____	_____	
Beginning of Month kWh Meter:	_____	_____	_____	
Difference:	_____	_____	_____	<u>Net Generation</u>
Times Meter Constant:	_____	_____	_____	
kWh for the Month:	_____ -	_____ -	_____ =	
Metered Demand:	_____	_____	_____	

Breaker Opening Record

<u>Date</u>	<u>Time</u>	<u>Meter</u>

Breaker Closing Record

<u>*</u>	<u>Reason</u>

<u>Date</u>	<u>Time</u>	<u>Meter</u>

- * **Breaker Opening Reason Codes**
- 1 Lack of Adequate Prime Mover
 - 2 Forced Outage of Facility
 - 3 Disturbance of IPCo System
 - 4 Scheduled Maintenance
 - 5 Testing of Protection Systems
 - 6 Cause Unknown
 - 7 Other (Explain)

I hereby certify that the above meter readings are true and correct as of Midnight on the last day of the above month and that the switching record is accurate and complete as required by the Firm Energy Sales Agreement to which I am a Party.

Signature Date

A-2 ROUTINE REPORTING

Idaho Power Contact Information

Daily Energy Production Reporting

Call daily by 10 a.m., 1-800-356-4328 or 1-800-635-1093 and leave the following information:

- Project Identification - Project Name and Project Number
- Current Meter Reading
- Estimated Generation for the current day
- Estimated Generation for the next day

Planned and Unplanned Project outages

Call 1-800-345-1319 and leave the following information:

- Project Identification - Project Name and Project Number
- Approximate time outage occurred
- Estimated day and time of project coming back online

Seller's Contact Information

24-Hour Project Operational Contact

Name: _____
Telephone Number: _____
Cell Phone: _____

Project On-site Contact information

Telephone Number: _____

APPENDIX B

FACILITY AND POINT OF DELIVERY

PROJECT NO. 31618100

SALMON FALLS WIND PARK

B-1 DESCRIPTION OF FACILITY

The Facility will consist of 14 Wind turbines; model GE SLE with individual generator ratings of 1.5 MW for each unit, for a total Facility generator rating of 21.0 MW.

B-2 LOCATION OF FACILITY

Near:

Sections: 25, 36 Township: T08S Range: R12E County: Twin Falls Idaho.

Sections: 30, 31 Township: T08S Range: R13E County: Twin Falls Idaho.

B-3 SCHEDULED FIRST ENERGY AND OPERATION DATE

Seller has selected November 1, 2006 as the estimated Scheduled First Energy Date.

Seller has selected May 1, 2007 as the estimated Scheduled Operation Date.

In making these selections, Seller recognizes that adequate testing of the Facility and completion of all requirements in paragraph 5.2 of this Agreement must be completed prior to the project being granted an Operation Date. Idaho Power, based on the information supplied by the Seller, will schedule its construction in accordance with Schedule 72 and the Generation Interconnection Process.

B-4 MAXIMUM CAPACITY AMOUNT: This value will be 22.40 MW which is consistent with the value provided by the Seller to Idaho Power in the Generation Interconnection process. This value is the maximum energy (MW) that potentially could be delivered by the Seller's Facility to the Idaho Power electrical system at any moment in time.

B-5 POINT OF DELIVERY

“Point of Delivery” means, unless otherwise agreed by both Parties, the point of where the Sellers Facility’s energy is delivered to the Idaho Power electrical system. The Idaho Power Generation Interconnection process will determine the specific Point of Delivery for this Facility. Upon completion of the Generation Interconnection process the Point of Delivery identified by this process will become an integral part of this Agreement.

B-6 LOSSES

If the Idaho Power Metering equipment is capable of measuring the exact energy deliveries by the Seller to the Idaho Power electrical system at the Point of Delivery, no Losses will be calculated for this Facility. If the Idaho Power Metering is unable to measure the exact energy deliveries by the Seller to the Idaho Power electrical system at the Point of Delivery, a Losses calculation will be established to measure the energy losses (kWh) between the Seller’s Facility and the Idaho Power Point of Delivery. This loss calculation will be initially set at 2% of the kWh energy production recorded on the Facility generation metering equipment. At such time as Seller provides Idaho Power with the electrical equipment specifications (transformer loss specifications, conductor sizes, etc) of all of the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power will configure a revised loss calculation formula to be agreed to by both parties and used to calculate the kWh Losses for the remaining term of the Agreement. If at anytime during the term of this Agreement, Idaho Power determines that the loss calculation does not correctly reflect the actual kWh losses attributed to the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power may adjust the calculation and retroactively adjust the previous months kWh loss calculations.

B-7 METERING AND TELEMETRY

The Idaho Power Generation Interconnection process will determine the specific metering and

telemetry requirements for this Facility. At the minimum the Metering Equipment and Telemetry equipment must be able to provide and record hourly energy deliveries to the Point of Delivery and any other energy measurements required to administer this Agreement. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Seller will arrange for and make available at Seller's cost communication circuit(s) compatible to Idaho Power's communications equipment and dedicated to Idaho Power's use terminating at the Idaho Power facilities capable of providing Idaho Power with continuous instantaneous information on the Facilities energy production. Idaho Power provided equipment will be owned and maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total metering cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

B-7 SPECIAL FACILITIES

The Idaho Power Generation Interconnection process will determine the Special Facility requirements for this Facility. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Idaho Power owned equipment will be maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total

Special Facility cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

B-8 REACTIVE POWER

The Idaho Power Generation Interconnection process will determine the reactive power required to be supplied by Idaho Power to the Seller, based upon information provided by the Seller. The Generation Interconnection process will specify the equipment required on the Idaho Power system to meet the Facility's reactive power requirements. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Idaho Power owned equipment will be maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total reactive power cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

B-9 DISCONNECTION EQUIPMENT

Disconnection Equipment is required to insure that the Seller's Facility will be disconnected from Idaho Power's system in the event of (1) the Seller's delivery of energy exceeds the Maximum Capacity Amount or (2) Idaho Power or the Seller require interruption or curtailment of energy deliveries to Idaho Power or (3) a disturbance on either Idaho Power's system or the Seller's Facility. The Idaho Power Generation Interconnection process will determine the Disconnection Equipment specifications and requirements for this Facility, this equipment is for protection of the Idaho Power system and equipment only. These specifications will include but not be limited

to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. Seller will install all Seller provided equipment, control wire and conduit necessary for the operation of the Disconnection Equipment. Through the Generation Interconnection process, Idaho Power will supply details for the disconnection panel and will test the equipment prior to any operations of the Facility, Seller will provide drawings of their interconnection wiring for engineering approval prior to installation. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Idaho Power owned equipment will be maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total Disconnection Equipment cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

B-10 COSTS

The Idaho Power Generation Interconnection process and this Agreement will identify all cost for this Facility to interconnect to the Idaho Power system, including but not limited to the cost of Metering equipment, Telemetry equipment, Special Facilities, Reactive Power, Disconnection equipment, Protection equipment and Interconnection Equipment. As specified in the Generation Interconnection process and in accordance with Schedule 72 and this Agreement the Seller will reimburse Idaho Power for all costs associated with this equipment. In addition to the equipment, installation and construction charges as specified above, during the term of this Agreement, Seller will pay Idaho Power the monthly operation and maintenance charge specified in Schedule 72 or its successor schedules(s). The monthly operations and maintenance charge will begin on the first day of the month following the date which Idaho Power has completed installation of the Idaho Power provided equipment and the interconnection equipment is available for use by the

Facility. The monthly operations and maintenance charge will be based upon the initial cost paid by the Seller in accordance with Schedule 72. Upon reconciliation of the actual costs, in accordance with Schedule 72 the monthly operations and maintenance charge will be adjusted to reflect the actual cost incurred by Idaho Power and previously charged monthly operation and maintenance expense will be revised to reflect the actual cost incurred by Idaho Power. Idaho Power will refund or Seller will remit any underpayment of the adjusted monthly operations and maintenance charge within sixty (60) days of the determination of this amount.

B-11 SALVAGE

No later than sixty (60) days after the termination or expiration of this Agreement, Idaho Power will prepare and forward to Seller an estimate of the remaining value of those Idaho Power furnished Interconnection Facilities as required under Schedule 72, the Generation Interconnection Process and/or described in this Agreement, less the cost of removal and transfer to Idaho Power's nearest warehouse, if the Interconnection Facilities will be removed. If Seller elects not to obtain ownership of the Interconnection Facilities but instead wishes that Idaho Power reimburse the Seller for said Facilities the Seller may invoice Idaho Power for the net salvage value as estimated by Idaho Power and Idaho Power shall pay such amount to Seller within thirty (30) days after receipt of the invoice. Seller shall have the right to offset the invoice amount against any present or future payments due Idaho Power.

APPENDIX C

ENGINEER'S CERTIFICATION

OF

OPERATIONS & MAINTENANCE POLICY

The undersigned _____, on behalf of himself and _____, hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter "Agreement," between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as IPCo Facility No. _____ and is hereinafter referred to as the "Project."
4. That the Project, which is commonly known as the _____, is located in Section ____ Township _____, Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a twenty (20) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has reviewed and/or supervised the review of the Policy for Operation and Maintenance ("O&M") for this Project and it is his professional opinion that, provided said Project has been designed and built to appropriate standards, adherence to said O&M Policy will result in the

Project's producing at or near the design electrical output, efficiency and plant factor for a twenty (20) year period.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.

10. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____

(P.E. Stamp)

Date _____

APPENDIX C

ENGINEER'S CERTIFICATION

OF

ONGOING OPERATIONS AND MAINTENANCE

The undersigned _____, on behalf of himself and _____ hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter "Agreement," between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as IPCo Facility No. _____ and hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the _____ Project, is located at _____.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a twenty (20) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has made a physical inspection of said Project, its operations and maintenance records since the last previous certified inspection. It is Engineer's professional opinion, based on the Project's appearance, that its ongoing O&M has been substantially in accordance with said O&M Policy; that it is in reasonably good operating condition; and that if adherence to said O&M Policy continues, the Project will continue producing at or near its design electrical output, efficiency and plant factor for the remaining _____ years of the Agreement.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.

10. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____

(P.E. Stamp)

Date _____

APPENDIX C
ENGINEER'S CERTIFICATION
OF
DESIGN & CONSTRUCTION ADEQUACY

The undersigned _____, on behalf of himself and _____, hereinafter collectively referred to as "Engineer", hereby states and certifies to Idaho Power as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Firm Energy Sales Agreement, hereinafter "Agreement", between Idaho Power as Buyer, and _____ as Seller, dated _____, _____.
3. That the cogeneration or small power production project, which is the subject of the Agreement and this Statement, is identified as IPCo Facility No _____ and is hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the _____ Project, is located in Section _____, Township _____, Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a _____ (____) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project and has made the analysis of the plans and specifications independently.
8. That Engineer has reviewed the engineering design and construction of the Project, including the civil work, electrical work, generating equipment, prime mover conveyance system, Seller furnished Interconnection Facilities and other Project facilities and equipment.

9. That the Project has been constructed in accordance with said plans and specifications, all applicable codes and consistent with Prudent Electrical Practices as that term is described in the Agreement.

10. That the design and construction of the Project is such that with reasonable and prudent operation and maintenance practices by Seller, the Project is capable of performing in accordance with the terms of the Agreement and with Prudent Electrical Practices for a _____ (_____) year period.

11. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, in interconnecting the Project with its system, is relying on Engineer's representations and opinions contained in this Statement.

12. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____
(P.E. Stamp)

Date _____

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR) CASE NO. IPC-E-05-33
APPROVAL OF A FIRM ENERGY SALES)
AGREEMENT FOR THE SALE AND)
PURCHASE OF ELECTRIC ENERGY) ORDER NO. 29951
BETWEEN IDAHO POWER COMPANY)
AND SALMON FALLS WIND PARK LLC)**

On October 20, 2005, Idaho Power Company (Idaho Power; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting approval of a 20-year Firm Energy Sales Agreement (Agreement) between Idaho Power and Salmon Falls Wind Park LLC (Salmon Falls) dated October 14, 2005. Under the Agreement, Salmon Falls will sell and Idaho Power will purchase electric energy generated by Salmon Falls, a project located near Hagerman, Idaho, south of the Bell Rapids area, in an area more particularly described as Sections 25 and 36, Township 8 S, Range 12 E, Boise Meridian, Twin Falls County, Idaho; and Sections 30 and 31, Township 8 S, Range 13 E, Boise Meridian, Twin Falls County, Idaho. The project will consist of fourteen (14) 1.5 MW GE wind turbines. The nameplate rating of the project is 21.0 MW. Under normal and/or average conditions, the project will not exceed 10 aMW on a monthly basis. If energy in excess of this amount (Inadvertent Energy) is accidentally generated, Idaho Power will accept Inadvertent Energy that does not exceed the 22.40 MW Maximum Capacity Amount, but will not purchase or pay for it. Agreement ¶ 7.3.2; Appendix B-4.

The Salmon Falls project will be a qualified small power production facility (QF) under the applicable provisions of the Public Utility Regulatory Policies Act of 1978 (PURPA). As represented by Idaho Power, the Agreement comports with the terms and conditions of Commission Order No. 29632 (*U.S. Geothermal et al v. Idaho Power*), avoided cost Order No. 29646 and Commission Order Nos. 29839, 29851 and 29872 in Case No. IPC-E-05-22. The Agreement is for a 20-year term and contains the non-levelized published avoided cost rates set forth in Order No. 29646.

In interlocutory Order No. 29839 issued in Case No. IPC-E-05-22 the Commission reduced the size cap for QF wind generation facilities entitled to receive the published avoided

cost rates from 10 aMW to 100 kW. In its Order, the Commission further identified several criteria that it would consider to determine whether a particular QF wind generation facility in the negotiation queue was sufficiently mature so as to justify “grandfathering” the project to entitlement to the published rates. These criteria are as follows:

- (1) Submittal of a signed power purchase agreement to the utility, or
- (2) Submittal to the utility of a completed Application for Interconnection Study and payment of fee.

In addition to a finding of existence of one or both of the preceding threshold criteria, the QF must also be able to demonstrate other indicia of substantial progress and project maturity, e.g.,

- (1) A wind study demonstrating a viable site for the project,
- (2) A signed contract for wind turbines,
- (3) Arranged financing for the project, and/or
- (4) Related progress on the facility permitting and licensing path.

Order No. 29839, p. 10, August 4, 2005; final Order No. 29851. In reconsideration Order No. 29872 issued on September 21, 2005 in the same case, the Commission reaffirmed the grandfathering criteria and changed the “grandfathering” eligibility deadline from the previously-ordered July 1, 2005, to August 4, 2005, the date of interlocutory Order No. 29839.

Considering and weighing all of the Commission-identified criteria, Idaho Power believes that the Salmon Falls project is sufficiently far enough along the development path that it should be “grandfathered” to the published rates. Salmon Falls has selected November 2006 as the scheduled first energy date and May 2007 as the scheduled operation date.

As reflected in Agreement Section 24, the Agreement will not become effective until the Commission has approved all the Agreement’s terms and conditions and declares that all payments that Idaho Power makes to Salmon Falls for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.

On November 7, 2005, the Commission issued a Notice of Application and Modified Procedure in Case No. IPC-E-05-33. The deadline for filing written comments was November 28, 2005. Comments were filed by Commission Staff, Windland Incorporated and Buckeye Ranch, a project area resident. Staff has reviewed the submitted Agreement and finds that it comports with the terms and conditions of Commission Order No. 29632 (*U.S. Geothermal, et al. v. Idaho Power*), avoided cost Order No. 29646 and Commission Order Nos. 29839, 29851 and 29872 in Case No. IPC-E-05-22. The Agreement is for a 20-year term and contains the non-

levelized published avoided cost rates set forth in Order No. 29646. Staff recommends approval of the Agreement with an effective date of October 14, 2005.

Windland Incorporated expresses concern that the presence of “signed but not yet built” wind PURPA contracts limits Idaho Power Company’s options to procure other wind energy resources. If projects are approved but not built on schedule, Windland contends that there is a significant financial risk to Idaho ratepayers. Windland contends that Exergy Development Group has been late meeting target dates for three approved projects to date. The United Materials Horseshoe Bend Wind Park project near Great Falls, Montana is now almost a year late in meeting its scheduled on-line date. The Fossil Gulch project near Hagerman, Idaho is on-line but did not achieve the status by its January 1, 2005 milestone target. The Burley Butte project near Burley, Idaho did not meet its October 30, 2005 first energy date. Windland does not expect the Thousand Springs, Pilgrim Stage, Oregon Trail and Tuana Gulch projects to meet their December 31, 2005 scheduled operation dates. If Exergy fails to bring Salmon Falls and three other proposed projects on-line by the scheduled May 2007 date, Windland contends that it will be too late for Idaho Power to procure alternate wind resources from another source before the federal production tax credit expires at the end of 2007. Reference Milner Dam (IPC-E-05-30), Lava Beds (IPC-E-05-31), and Notch Butte (IPC-E-05-32). Windland requests that the Commission examine the totality of facts associated with these four contracts and only approve them if Exergy provides adequate assurances that the projects will be timely built.

Buckeye Ranch expresses concern regarding the siting of the turbines and their environmental impact on state and federal lands and on local flora and fauna. Buckeye Ranch contends that Salmon Falls has failed to satisfy the grandfathering criteria established in Order Nos. 29839 and 29872 and requests that prior to “grandfathering” the project, the Commission make its own investigation and determination, after notice and hearing, whether any progress has been made along the development path, especially regarding siting concerns.

Exergy by way of reply contends that Windland raises issues of generic applicability to PURPA contracts relative to penalties or damage calculations for delay in achieving the first operation date for QF projects. Exergy contends that such issues are beyond the scope of the instant proceeding. Exergy further contends that it is black letter law in Idaho that when the Commission makes changes in a utility’s rates or the terms and conditions of service, that such

changes may only be made on a prospective basis. *Citing Utah Power & Light v. IPUC*, 107 Idaho 47, 52, 685 P.2d 276 (1984).

Idaho Power in reply comments addresses Exergy contract performance, notes the default provisions of the Agreement and cites prior QF contract policy regarding the inappropriateness of liquidated damage provisions in small QF published rate contracts. Idaho Power contends that the Salmon Falls project satisfies the Commission's grandfathering eligibility criteria and requests that the Commission approve the Firm Energy Sales Agreement. Idaho Power agrees that the template contract the Company currently utilizes for small QF published rate contracts provides essentially a "free option" to the QF developer to sign a contract, lock-in a rate, and then go see if it can actually put together a project. Windland is correct in its assessment, the Company concurs, that should multiple QF projects entitled to the published rates fail to meet the scheduled operation dates, the collective impact could adversely affect the Company's resource planning process. Should the Commission find the performance and liquidated damage issues raised by Windland to be worthy of further consideration, Idaho Power contends that the suggested changes are appropriate only for prospective application and recommends that the appropriate procedure would be to open a separate docket.

COMMISSION FINDINGS

The Commission has reviewed and considered the filings of record in Case No. IPC-E-05-30, including the underlying Agreement, the comments and recommendations of Commission Staff, Windland Incorporated, and Buckeye Ranch and the reply comments of Exergy and Idaho Power. We have also reviewed public comments filed in support of the project.

The Commission Staff recommends that the Salmon Falls Agreement be approved. Windland Incorporated recommends that the Commission require adequate assurances from the developer that the project will be timely built. Idaho Power notes the default provisions of the Agreement and suggests that the generic performance and liquidated damage issues raised by Windland be addressed, if at all, in a separate docket for prospective application in future contracts.

The Commission has considered the concerns raised by Windland regarding the ramifications of an approved QF project failing to come on-line. While the identified risks exist, we find the risk to be small. There is always a risk that QF projects will not come on-line at the

time projected. In addition, prices of resources are always changing. The Company's planning process is flexible enough to accommodate the risk associated with small QF projects. We have no developed record of upfront project failure to justify the imposition of a performance bond requirement assuring that small projects qualifying for published rates will be timely built. Until the facts are demonstrated to be otherwise we do not find a performance bond requirement in this case or an investigation to be warranted.

Buckeye Ranch expresses concern regarding the siting of the turbines and their environmental impact on state and federal lands and on local flora and fauna. These concerns are matters that fall outside this Commission's statutory jurisdiction and that are addressed in other governmental permitting and licensing forums. Buckeye Ranch is encouraged to participate in those discussions and proceedings.

Regarding Buckeye Ranch's contention that insufficient progress has been made by Salmon Falls on the permitting and licensing path and that Salmon Falls has failed to satisfy the grandfathering criteria established in Case No. IPC-E-05-22, the Commission notes that the Commission's Orders do not require satisfaction of each and every second tier item to obtain grandfathering. Instead we identified criteria that could be looked to to assess project maturity. As we stated in Reconsideration Order No. 29872, the degree of substantial progress and project maturity that we look for is a demonstration that the QF project can be brought on-line in a timely manner and within a reasonable period following contract execution and approval. We look at the totality of the facts. Salmon Falls was in the negotiation queue prior to the grandfathering cut off date. Idaho Power believes that the Salmon Falls project was sufficiently far enough along the development path to warrant grandfathering. In this case we are satisfied that the project has demonstrated grandfathering eligibility.

Idaho Power has presented a Firm Energy Sales Agreement with Salmon Falls for Commission consideration and approval. The nameplate rating of the wind facility is 21.0 MW. The contract is for a 20-year term and contains non-levelized published avoided cost rates for energy deliveries not exceeding 10 aMW on a monthly basis. The Commission finds that the Agreement submitted in this case contains acceptable contract provisions and comports with the terms and conditions of Order Nos. 29632 and 29682 in Case Nos. IPC-E-04-8; 04-10. The Commission finds that the project satisfies the grandfathering eligibility criteria established in Order Nos. 29839 and 29872 in Case No. IPC-E-05-22.

The Commission finds it reasonable that the submitted Agreement be approved without further notice or procedure. IDAPA 31.01.01.204. We further find it reasonable to allow payments made under the Agreement as prudently incurred expenses for ratemaking purposes.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over Idaho Power Company, an electric utility, pursuant to the authority and power granted it under Title 61 of the Idaho Code and the Public Utility Regulatory Policies Act of 1978 (PURPA).

The Commission has authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed term obligations for the purchase of energy from qualified facilities and to implement FERC rules.

ORDER

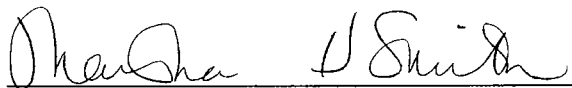
In consideration of the foregoing, IT IS HEREBY ORDERED and the Commission does hereby approve the October 14, 2005 Firm Energy Sales Agreement between Idaho Power Company and Salmon Falls Wind Park, LLC.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 10th
day of January 2006.



PAUL KJELLANDER, PRESIDENT

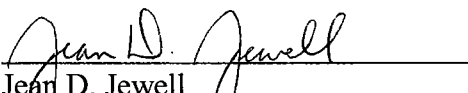


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

bis/O:IPC-E-05-33_sw

Exhibit 5



IDAHO POWER COMPANY
P.O. BOX 70
BOISE, IDAHO 83707

MONICA MOEN
Attorney

April 20, 2006

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington Street
P. O. Box 83720
Boise, Idaho 83720-0074

APR 20 11 44 AM '06
PUBLIC UTILITIES COMMISSION

Re: Case No. IPC-E-06-10
Application For Approval of Firm Energy Sales Agreement
Between Idaho Power Company and Cassia Wind Farm, LLC

Dear Ms. Jewell:

Please find enclosed for filing an original and seven (7) copies of Idaho Power Company's Application for approval of a Firm Energy Sales Agreement between Idaho Power and Cassia Wind Farm, LLC.

I would appreciate it if you would return a stamped copy of this transmittal letter in the enclosed self-addressed, stamped envelope.

Very truly yours,

Monica Moen

MM:jb
Enclosures

MONICA MOEN, ISB # 5734
BARTON KLINE, ISB # 1526
Idaho Power Company
1221 West Idaho Street
P. O. Box 70
Boise, Idaho 83707
Telephone: (208) 388-2692
FAX Telephone: (208) 388-6936

RECEIVED
APR 13 2010 4:53
PUBLIC UTILITIES COMMISSION

Attorney for Idaho Power Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)
IDAHO POWER COMPANY FOR APPROVAL)
OF A FIRM ENERGY SALES AGREEMENT)
FOR THE SALE AND PURCHASE OF)
ELECTRIC ENERGY BETWEEN IDAHO)
POWER COMPANY AND CASSIA WIND)
FARM, LLC.)
_____)

CASE NO. IPC-E-06-10

APPLICATION

COMES NOW Idaho Power Company ("Idaho Power" or the "Company") and, pursuant to RP 52, hereby applies for an Idaho Public Utilities Commission ("IPUC" or the "Commission") Order approving a Firm Energy Sales Agreement between Idaho Power and Cassia Wind Farm, LLC ("Cassia Wind") under which Cassia Wind would sell and Idaho Power would purchase electric energy generated by the Cassia Wind wind generation project located near Hagerman, Idaho in the area known as Bell Rapids (the "Facility").

This Application is based on the following:

I.

On October 27, 2005, Cassia Wind filed a petition with the Commission requesting a Commission Order determining that Cassia Wind was exempt from the published rate eligibility cap established in Commission Order 29839. On January 17, 2006, the Commission, in Order No. 29954, determined that Cassia Wind was entitled to receive exemption from the published rate eligibility cap established in Order No. 29839 provided that Cassia Wind was able to secure contractual financing and turbine commitment from John Deere Credit within a specified time period. In a Minute Entry dated February 8, 2006, the Commission acknowledged satisfaction of the conditions precedent set forth in Order No. 29954 and recognized that Cassia Wind was exempt from the published rate eligibility cap established in Order No. 29839.

II.

On April 7, 2006, Idaho Power and Cassia Wind entered into a Firm Energy Sales Agreement ("Agreement") pursuant to the terms and conditions of Commission Order No. 29632, Commission Order 29954 and the Commission Minute Entry dated February 8, 2006. Under the terms of that Agreement, Cassia Wind elected to contract with Idaho Power for a 20-year term. Cassia Wind further elected to contract with the Company using the non-levelized published avoided cost rates as currently established by the Commission for projects that, under normal operating conditions, will not generate more than 10 aMW on a monthly basis.

III.

This Agreement contains the various PURPA terms and conditions previously approved by the Commission in other PURPA agreements and as revised by Commission

IV.

Cassia Wind proposes to design, construct, install, own, operate and maintain a 10.5 MW wind generating facility. The Facility will be a qualified small power production facility under the applicable provisions of the Public Utilities Regulatory Policy Act of 1978 ("PURPA"). The Facility will consist of five (5) Suzlon, Model S88, wind turbines with individual generator ratings of 2.1 MW for each unit for a total facility generator rating of 10.5 MW. As provided by the Agreement, Cassia Wind will be required to provide data on the Facility that Idaho Power will use to confirm that, under normal and/or average conditions, generation from the Facility will not exceed 10 aMW on a monthly basis.

V.

Cassia Wind has selected August 31, 2006 as the Scheduled First Energy Date and December 31, 2006 as the Scheduled Operation Date for the Facility. As the Agreement specifies, once a project requests and is assigned an Operation Date, various terms of the Agreement are activated, primarily the 90%/110% performance criteria. The Agreement requires that only the monthly variable non-firm price for energy be paid for any energy the Facility delivers to Idaho Power prior to the assignment of an Operation Date for this project.

VI.

The project will be interconnected to the Company's electrical system in accordance with Schedule 72. All applicable interconnection charges and monthly operation and maintenance charges under Schedule 72 will be assessed Cassia Wind.

VII.

Section 24 of the Agreement provides that the Agreement will not become effective until the Commission has approved all of the Agreement's terms and conditions and declared that all payments Idaho Power makes to Cassia Wind for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.

VIII.

Within this Agreement, various requirements have been placed upon Cassia Wind in order for Idaho Power to accept energy deliveries from this project. Idaho Power will confirm that the initial requirements have been completed prior to accepting energy from this Facility. The Company will also monitor the ongoing requirements through the full term of this Agreement. Should the Commission approve this Agreement, Idaho Power intends to consider the Effective Date of the Agreement to be April 7, 2006.

IX.

The Agreement, as signed and submitted by the Parties thereto, contains Non-Levelized Published Avoided Cost Rates in conformity with applicable IPUC Orders.

X.

Service of pleadings, exhibits, orders and other documents relating to this proceeding should be served on the following:

Monica B. Moen, Attorney II
Barton L. Kline, Senior Attorney
Idaho Power Company
P.O. Box 70
Boise, Idaho 83707
mmoen@idahopower.com
bkline@idahopower.com

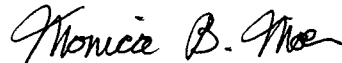
Randy C. Allphin
Contract Administrator
Idaho Power Company
P.O. Box 70
Boise, Idaho 83707
rallphin@idahopower.com

NOW, THEREFORE, based on the foregoing, Idaho Power Company hereby requests that the Commission issue its Order:

(1) Approving the Firm Energy Sales Agreement between Idaho Power Company and Cassia Wind without change or condition; and

(2) Declaring that all payments for purchases of energy under the Firm Energy Sales Agreement between Idaho Power Company and Cassia Wind be allowed as prudently incurred expenses for ratemaking purposes.

Respectfully submitted this 20~~th~~ day of April 2006.



MONICA B. MOEN
Attorney for Idaho Power Company

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 20~~th~~ day of April 2006, I served a true and correct copy of the within and foregoing APPLICATION upon the following named parties by the method indicated below, and addressed to the following:

Jared Grover, Manager	<input type="checkbox"/>	Hand Delivered
Cassia Gulch Wind Park LLC	<input checked="" type="checkbox"/>	U.S. Mail
4200 N. Cloverdale Road	<input type="checkbox"/>	Overnight Mail
Boise, ID 83713	<input type="checkbox"/>	FAX

John Deer Wind Energy	<input type="checkbox"/>	Hand Delivered
c/o John Deere Credit	<input checked="" type="checkbox"/>	U.S. Mail
6400 NW 86 th Street	<input type="checkbox"/>	Overnight Mail
Johnston, IA 50131	<input type="checkbox"/>	FAX
Attn: Assistant Chief Counsel		
Wind Energy		



MONICA B. MOEN

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

FILED
JUL 17 2006 10:45 AM
IDAHO PUBLIC UTILITIES COMMISSION

CASE NO. IPC-E-06-10

IDAHO POWER COMPANY

EXHIBIT 1

FIRM ENERGY SALES AGREEMENT

BETWEEN

IDAHO POWER COMPANY

AND

CASSIA WIND FARM LLC

TABLE OF CONTENTS

APPROVED
BY THE
IDAHO PUBLIC
UTILITIES COMMISSION
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<u>Article</u>	<u>TITLE</u>
1	Definitions
2	No Reliance on Idaho Power
3	Warranties
4	Conditions to Acceptance of Energy
5	Term and Operation Date
6	Purchase and Sale of Net Energy
7	Purchase Price and Method of Payment
8	Environmental Attributes
9	Facility and Interconnection
10	Disconnection Equipment
11	Metering and Telemetry
12	Records
13	Protection
14	Operations
15	Indemnification and Insurance
16	Force Majeure
17	Land Rights
18	Liability; Dedication
19	Several Obligations
20	Waiver
21	Choice of Laws and Venue
22	Disputes and Default
23	Governmental Authorization
24	Commission Order
25	Successors and Assigns
26	Modification
27	Taxes
28	Notices
29	Additional Terms and Conditions
30	Severability
31	Counterparts
32	Entire Agreement Signatures
	Appendix A
	Appendix B
	Appendix C

FIRM ENERGY SALES AGREEMENT
(10 aMW or Less)

CASSIA WIND FARM LLC

Project Number: 31318100

THIS AGREEMENT, entered into on this 7 day of April 2006 between CASSIA WIND FARM, an Idaho limited liability company (Seller), and IDAHO POWER COMPANY, an Idaho corporation (Idaho Power), hereinafter sometimes referred to collectively as "Parties" or individually as "Party."

WITNESSETH:

WHEREAS, Seller will design, construct, own, maintain and operate an electric generation facility; and

WHEREAS, Seller wishes to sell, and Idaho Power is willing to purchase, firm electric energy produced by the Seller's Facility.

THEREFORE, In consideration of the mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

ARTICLE I: DEFINITIONS

As used in this Agreement and the appendices attached hereto, the following terms shall have the following meanings:

- 1.1 "Commission" - The Idaho Public Utilities Commission.
- 1.2 "Contract Year" - The period commencing each calendar year on the same calendar date as the Operation Date and ending 364 days thereafter.
- 1.3 "Designated Dispatch Facility" - Idaho Power's Systems Operations Group, or any subsequent group designated by Idaho Power.
- 1.4 "Disconnection Equipment" - All equipment specified in Schedule 72 and the Generation Interconnection Process and any additional equipment specified in Appendix B.
- 1.5 "Facility" - That electric generation facility described in Appendix B of this Agreement.

- 1.6 "First Energy Date" - The day commencing at 0001 hours, Mountain Time, following the day that Seller has satisfied the requirements of Article IV and the Seller begins delivering energy to Idaho Power's system at the Point of Delivery.
- 1.7 "Generation Interconnection Process" – Idaho Power's generation interconnection application and engineering review process developed to ensure a safe and reliable generation interconnection in compliance with all applicable regulatory requirements, Prudent Electrical Practices and national safety standards.
- 1.8 "Inadvertent Energy" – Electric energy Seller does not intend to generate. Inadvertent energy is more particularly described in paragraph 7.3 of this Agreement.
- 1.9 "Interconnection Facilities" - All equipment specified in Schedule 72 and the Generation Interconnection Process and any additional equipment specified in Appendix B.
- 1.10 "Initial Capacity Determination" – The process by which Idaho Power confirms that under normal or average design conditions the Facility will generate at no more than 10 average MW per month and is therefore eligible to be paid the published rates in accordance with Commission Order No. 29632.
- 1.11 "Losses" – The loss of electrical energy expressed in kilowatt hours (kWh) occurring as a result of the transformation and transmission of energy between the point where the Facility's energy is metered and the point the Facility's energy is delivered to the Idaho Power electrical system. The loss calculation formula will be as specified in Appendix B of this Agreement.
- 1.12 "Market Energy Cost" – Eighty-five percent (85%) of the weighted average of the daily on-peak and off-peak Dow Jones Mid-Columbia Index (Dow Jones Mid-C Index) prices for non-firm energy. If the Dow Jones Mid-Columbia Index price is discontinued by the reporting agency, both Parties will mutually agree upon a replacement index, which is similar to the Dow Jones Mid-Columbia Index. The selected replacement index will be consistent with other similar agreements and a commonly used index by the electrical industry.
- 1.13 "Material Breach" – A Default (paragraph 22.2.1) subject to paragraph 22.2.2.

- 1.14 “Maximum Capacity Amount” – The maximum capacity (MW) of the Facility will be as specified in Appendix B of this Agreement.
- 1.15 “Metering Equipment” - All equipment specified in Schedule 72, the Generation Interconnection Process, this Agreement and any additional equipment specified in Appendix B required to measure, record and telemeter power flows between the Seller's electric generation plant and Idaho Power's system.
- 1.16 “Net Energy” – All of the electric energy produced by the Facility, less Station Use, less Losses, expressed in kilowatt hours (kWh). Seller commits to deliver all Net Energy to Idaho Power at the Point of Delivery for the full term of the Agreement. Net Energy does not include Inadvertent Energy.
- 1.17 “Operation Date” – The day commencing at 0001 hours, Mountain Time, following the day that all requirements of paragraph 5.2 have been completed.
- 1.18 “Point of Delivery” – The location specified in Appendix B, where Idaho Power's and the Seller's electrical facilities are interconnected.
- 1.19 “Prudent Electrical Practices” – Those practices, methods and equipment that are commonly and ordinarily used in electrical engineering and operations to operate electric equipment lawfully, safely, dependably, efficiently and economically.
- 1.20 “Scheduled Operation Date” – The date specified in Appendix B when Seller anticipates achieving the Operation Date.
- 1.21 “Schedule 72” – Idaho Power's Tariff No 101, Schedule 72 or its successor schedules as approved by the Commission.
- 1.22 “Season” – The three periods identified in paragraph 6.2.1 of this Agreement.
- 1.23 “Special Facilities” - Additions or alterations of transmission and/or distribution lines and transformers as described in Appendix B, Schedule 72 or the Generation Interconnection Process required to safely interconnect the Seller's Facility to the Idaho Power system.
- 1.24 “Station Use” – Electric energy that is used to operate equipment that is auxiliary or otherwise related to the production of electricity by the Facility.

- 1.25 “Surplus Energy” – (1) Net Energy produced by the Seller’s Facility and delivered to the Idaho Power electrical system during the month which exceeds 110% of the monthly Net Energy Amount for the corresponding month specified in paragraph 6.2. or (2) If the Net Energy produced by the Seller’s Facility and delivered to the Idaho Power electrical system during the month is less than 90% of the monthly Net Energy Amount for the corresponding month specified in paragraph 6.2, then all Net Energy delivered by the Facility to the Idaho Power electrical system for that given month or (3) All Net Energy produced by the Seller’s Facility and delivered by the Facility to the Idaho Power electrical system prior to the Operation Date.
- 1.26 “Total Cost of the Facility” - The total cost of structures, equipment and appurtenances.

ARTICLE II: NO RELIANCE ON IDAHO POWER

- 2.1 Seller Independent Investigation - Seller warrants and represents to Idaho Power that in entering into this Agreement and the undertaking by Seller of the obligations set forth herein, Seller has investigated and determined that it is capable of performing hereunder and has not relied upon the advice, experience or expertise of Idaho Power in connection with the transactions contemplated by this Agreement.
- 2.2 Seller Independent Experts - All professionals or experts including, but not limited to, engineers, attorneys or accountants, that Seller may have consulted or relied on in undertaking the transactions contemplated by this Agreement have been solely those of Seller.

ARTICLE III: WARRANTIES

- 3.1 No Warranty by Idaho Power - Any review, acceptance or failure to review Seller’s design, specifications, equipment or facilities shall not be an endorsement or a confirmation by Idaho Power and Idaho Power makes no warranties, expressed or implied, regarding any aspect of Seller’s design, specifications, equipment or facilities, including, but not limited to, safety, durability, reliability, strength, capacity, adequacy or economic feasibility.
- 3.2 Qualifying Facility Status - Seller warrants that the Facility is a “Qualifying Facility,” as that term

is used and defined in 18 CFR §292.207. After initial qualification, Seller will take such steps as may be required to maintain the Facility's Qualifying Facility status during the term of this Agreement and Seller's failure to maintain Qualifying Facility status will be a Material Breach of this Agreement. Idaho Power reserves the right to review the Seller's Qualifying Facility status and associated support and compliance documents at anytime during the term of this Agreement.

ARTICLE IV: CONDITIONS TO ACCEPTANCE OF ENERGY

- 4.1 Prior to the First Energy Date and as a condition of Idaho Power's acceptance of deliveries of energy from the Seller, Seller shall:
- 4.1.1 Submit proof to Idaho Power that all licenses, permits or approvals necessary for Seller's operations have been obtained from applicable federal, state or local authorities, including, but not limited to, evidence of compliance with Subpart B, 18 CFR 292.207.
- 4.1.2 Opinion of Counsel - Submit to Idaho Power an Opinion Letter signed by an attorney admitted to practice and in good standing in the State of Idaho providing an opinion that Seller's licenses, permits and approvals as set forth in paragraph 4.1.1 above are legally and validly issued, are held in the name of the Seller and, based on a reasonable independent review, counsel is of the opinion that Seller is in substantial compliance with said permits as of the date of the Opinion Letter. The Opinion Letter will be in a form acceptable to Idaho Power and will acknowledge that the attorney rendering the opinion understands that Idaho Power is relying on said opinion. Idaho Power's acceptance of the form will not be unreasonably withheld. The Opinion Letter will be governed by and shall be interpreted in accordance with the legal opinion accord of the American Bar Association Section of Business Law (1991).
- 4.1.3 Initial Capacity Determination - Submit to Idaho Power such data as Idaho Power may reasonably require to perform the Initial Capacity Determination. Such data will include but not be limited to, equipment specifications, prime mover data, resource characteristics, normal and/or average operating design conditions and Station Use data.

Upon receipt of this information, Idaho Power will review the provided data and if necessary, request additional data to complete the Initial Capacity Determination within a reasonable time.

- 4.1.4 Engineer's Certifications - Submit an executed Engineer's Certification of Design & Construction Adequacy and an Engineer's Certification of Operations and Maintenance (O&M) Policy as described in Commission Order No. 21690. These certificates will be in the form specified in Appendix C but may be modified to the extent necessary to recognize the different engineering disciplines providing the certificates.
- 4.1.5 Insurance - Submit written proof to Idaho Power of all insurance required in Article XV.
- 4.1.6 Interconnection – Provide written proof to Idaho Power that all Schedule 72 and Generation Interconnection Process requirements have been completed.
- 4.1.7 Written Acceptance – Request and obtain written confirmation from Idaho Power that all conditions to acceptance of energy have been fulfilled. Such written confirmation shall be provided within a commercially reasonable time following the Seller's request and will not be unreasonably withheld by Idaho Power.

ARTICLE V: TERM AND OPERATION DATE

- 5.1 Term - Subject to the provisions of paragraph 5.2 below, this Agreement shall become effective on the date first written and shall continue in full force and effect for a period of twenty (20) Contract Years from the Operation Date.
- 5.2 Operation Date - The Operation Date may occur only after the Facility has achieved all of the following:
 - a) Achieved the First Energy Date.
 - b) Commission approval of this Agreement in a form acceptable to Idaho Power has been received.
 - c) Seller has demonstrated to Idaho Power's satisfaction that the Facility is complete and able to provide energy in a consistent, reliable and safe manner.

- d) Seller has requested an Operation Date from Idaho Power in a written format.
- e) Seller has received written confirmation from Idaho Power of the Operation Date.

This confirmation will not be unreasonably withheld by Idaho Power.

5.3 Seller's failure to achieve the Operation Date within ten (10) months of the Scheduled Operation Date will be an event of default.

ARTICLE VI: PURCHASE AND SALE OF NET ENERGY

6.1 Delivery and Acceptance of Net Energy - Except when either Party's performance is excused as provided herein, Idaho Power will purchase and Seller will sell all of the Net Energy to Idaho Power at the Point of Delivery. All Inadvertent Energy produced by the Facility will also be delivered by the Seller to Idaho Power at the Point of Delivery. At no time will the total amount of Net Energy and/or Inadvertent Energy produced by the Facility and delivered by the Seller to the Point of Delivery exceed the Maximum Capacity Amount.

6.2 Net Energy Amounts - Seller intends to produce and deliver Net Energy in the following monthly amounts:

6.2.1 Initial Year Monthly Net Energy Amounts:

	<u>Month</u>	<u>kWh</u>
Season 1	March	3,060,000
	April	2,470,000
	May	2,030,000
Season 2	July	1,425,000
	August	1,580,000
	November	2,995,000
	December	3,390,000
Season 3	June	1,810,000
	September	1,885,000
	October	2,300,000
	January	3,800,000
	February	3,175,000

6.2.2 Ongoing Monthly Net Energy Amounts - Seller shall initially provide Idaho Power with

one year of monthly generation estimates (Initial Year Monthly Net Energy Amounts) and beginning at the end of month nine and every three months thereafter provide Idaho Power with an additional three months of forward generation estimates. This information will be provided to Idaho Power by written notice in accordance with paragraph 28.1, no later than 5:00 PM of the 5th day following the end of the previous month. If the Seller does not provide the Ongoing Monthly Net Energy amounts in a timely manner, Idaho Power will use the most recent 3 months of the Initial Year Monthly Net Energy Amounts specified in paragraph 6.2.1 for the next 3 months of monthly Net Energy amounts.

6.2.3 Seller's Adjustment of Net Energy Amount –

6.2.3.1 No later than the Operation Date, by written notice given to Idaho Power in accordance with paragraph 28.1, the Seller may revise all of the previously provided Initial Year Monthly Net Energy Amounts.

6.2.3.2 Beginning with the end of the 3rd month after the Operation Date and at the end of every third month thereafter: (1) the Seller may not revise the immediate next three months of previously provided Net Energy Amounts, (2) but by written notice given to Idaho Power in accordance with paragraph 28.1, no later than 5:00 PM of the 5th day following the end of the previous month, the Seller may revise all other previously provided Net Energy Amounts. Failure to provide timely written notice of changed amounts will be deemed to be an election of no change.

6.2.4 Idaho Power Adjustment of Net Energy Amount – If Idaho Power is excused from accepting the Seller's Net Energy as specified in paragraph 14.2.1 or if the Seller declares a Suspension of Energy Deliveries as specified in paragraph 14.3.1 and the Seller's declared Suspension of Energy Deliveries is accepted by Idaho Power, the Net Energy Amount as specified in paragraph 6.2 for the specific month in which the reduction or suspension under paragraph 14.2.1 or 14.3.1 occurs will be reduced in accordance with

the following:

Where:

-
- NEA = Current Month's Net Energy Amount (Paragraph 6.2)
- SGU = a.) If Idaho Power is excused from accepting the Seller's Net Energy as specified in paragraph 14.2.1 this value will be equal to the percentage of curtailment as specified by Idaho Power multiplied by the TGU as defined below.
- b.) If the Seller declares a Suspension of Energy Deliveries as specified in paragraph 14.3.1 this value will be the sum of the individual generation units size ratings as specified in Appendix B that are impacted by the circumstances causing the Seller to declare a Suspension of Energy Deliveries.
- TGU = Sum of all of the individual generator ratings of the generation units at this Facility as specified in Appendix B of this agreement.
- RSH = Actual hours the Facility's Net Energy deliveries were either reduced or suspended under paragraph 14.2.1 or 14.3.1
- TH = Actual total hours in the current month

Resulting formula being:

$$\text{Adjusted Net Energy Amount} = \text{NEA} - \left(\left(\frac{\text{SGU}}{\text{TGU}} \times \text{NEA} \right) \times \left(\frac{\text{RSH}}{\text{TH}} \right) \right)$$

This Adjusted Net Energy Amount will be used in applicable Surplus Energy calculations for only the specific month in which Idaho Power was excused from accepting the Seller's Net Energy or the Seller declared a Suspension of Energy.

- 6.3 Unless excused by an event of Force Majeure, Seller's failure to deliver Net Energy in any Contract Year in an amount equal to at least ten percent (10%) of the sum of the Initial Year Net Energy Amounts as specified in paragraph 6.2 shall constitute an event of default.

ARTICLE VII: PURCHASE PRICE AND METHOD OF PAYMENT

- 7.1 Net Energy Purchase Price – For all Net Energy, Idaho Power will pay the non-levelized energy

price in accordance with Commission Order 29646 with seasonalization factors applied:

<u>Year</u>	Season 1 - (73.50 %)	Season 2 - (120.00 %)	Season 3 - (100.00 %)
	<u>Mills/kWh</u>	<u>Mills/kWh</u>	<u>Mills/kWh</u>
2006	37.85	61.80	51.50
2007	38.73	63.23	52.69
2008	39.62	64.68	53.90
2009	40.53	66.17	55.14
2010	41.46	67.69	56.41
2011	42.42	69.25	57.71
2012	43.39	70.85	59.04
2013	44.39	72.48	60.40
2014	45.42	74.16	61.80
2015	46.47	75.86	63.22
2016	47.54	77.62	64.68
2017	48.63	79.40	66.17
2018	49.76	81.24	67.70
2019	50.91	83.11	69.26
2020	52.07	85.02	70.85
2021	53.28	86.99	72.49
2022	54.51	88.99	74.16
2023	55.76	91.04	75.87
2024	57.05	93.14	77.62
2025	58.37	95.29	79.41
2026	59.72	97.50	81.25
2027	61.09	99.74	83.12

7.2 Surplus Energy Price - For all Surplus Energy, Idaho Power shall pay to the Seller the current month's Market Energy Cost or the Net Energy Purchase Price specified in paragraph 7.1, whichever is lower.

7.3 Inadvertent Energy –

7.3.1 Inadvertent Energy is electric energy produced by the Facility, expressed in kWh, which the Seller delivers to Idaho Power at the Point of Delivery that exceeds 10,000 kW multiplied by the hours in the specific month in which the energy was delivered. (For example January contains 744 hours. 744 hours times 10,000 kW = 7,440,000 kWh. Energy delivered in January in excess of 7,440, 000 kWh in this example would be Inadvertent Energy.)

7.3.2 Although Seller intends to design and operate the Facility to generate no more than 10

average MW and therefore does not intend to generate Inadvertent Energy, Idaho Power will accept Inadvertent Energy that does not exceed the Maximum Capacity Amount but will not purchase or pay for Inadvertent Energy

- 7.4 Payment Due Date – Energy payments to the Seller will be disbursed within 30 days of the date which Idaho Power receives and accepts the documentation of the monthly Net Energy and Inadvertent Energy actually produced by the Seller’s Facility and delivered to Idaho Power as specified in Appendix A.
- 7.5 Continuing Jurisdiction of the Commission – This Agreement is a special contract and, as such, the rates, terms and conditions contained in this Agreement will be construed in accordance with Idaho Power Company v. Idaho Public Utilities Commission and Afton Energy, Inc., 107 Idaho 781, 693 P.2d 427 (1984); Idaho Power Company v. Idaho Public Utilities Commission, 107 Idaho 1122, 695 P.2d 1 261 (1985); Afton Energy, Inc. v. Idaho Power Company, 111 Idaho 925, 729 P.2d 400 (1986); Section 210 of the Public Utilities Regulatory Policies Act of 1978 and 18 CFR §292.303-308.

ARTICLE VIII: ENVIRONMENTAL ATTRIBUTES

- 8.1 Idaho Power waives any claim to ownership of Environmental Attributes. Environmental Attributes include, but are not limited to, Green Tags, Green Certificates, Renewable Energy Credits (RECs) and Tradable Renewable Certificates (TRCs) directly associated with the production of energy from the Seller’s Facility.

ARTICLE IX: FACILITY AND INTERCONNECTION

- 9.1 Design of Facility - Seller will design, construct, install, own, operate and maintain the Facility and any Seller-owned Interconnection Facilities so as to allow safe and reliable generation and delivery of Net Energy and Inadvertent Energy to the Idaho Power Point of Delivery for the full term of the Agreement.
- 9.2 Interconnection Facilities - Except as specifically provided for in this Agreement, the required

Interconnection Facilities will be in accordance with Schedule 72, the Generation Interconnection Process and Appendix B. The Seller is responsible for all costs associated with this equipment as specified in Schedule 72 and the Generation Interconnection Process, including but not limited to initial costs incurred by Idaho Power for equipment costs, installation costs and ongoing monthly Idaho Power operations and maintenance expenses.

ARTICLE X: DISCONNECTION EQUIPMENT

- 10.1 Except as specifically provided for in this Agreement, the required Disconnection Equipment will be in accordance with Schedule 72, the Generation Interconnection Process and Appendix B. The Seller is responsible for all costs associated with this equipment as specified in Schedule 72 and the Generation Interconnection Process, including but not limited to initial costs incurred by Idaho Power for equipment costs, installation costs and Idaho Power ongoing monthly operations and monthly maintenance expenses.

ARTICLE XI: METERING AND TELEMETRY

- 11.1 Metering and Telemetry - Idaho Power shall, for the account of Seller, provide, install, and maintain Metering Equipment to be located at a mutually agreed upon location to record and measure power flows to Idaho Power in accordance with Schedule 72, Generation Interconnection Process and Appendix B of this Agreement. The Metering Equipment will be at the location and the type required to measure, record and report the Facility's Net Energy, Station Use, Inadvertent Energy and maximum energy deliveries (kW) in a manner to provide Idaho Power adequate energy measurement data to administer this Agreement and to integrate this Facility's energy production into the Idaho Power electrical system. All Metering Equipment and installation costs shall be borne by Seller, including costs incurred by Idaho Power for inspecting and testing such equipment at reasonable intervals at Idaho Power's actual cost of providing this Metering Equipment and services. The Metering Equipment shall be at the location described in Appendix B of this Agreement. All meters used to determine the billing hereunder shall be

sealed and the seals shall be broken only by Idaho Power when the meters are to be inspected, tested or adjusted.

11.2 Meter Inspection - Idaho Power shall inspect installations annually and test meters on the applicable periodic test schedule relevant to the equipment installed as specified in Appendix B of this Agreement. If requested by Seller, Idaho Power shall make a special inspection or test of a meter and Seller shall pay the reasonable costs of such special inspection. Both Parties shall be notified of the time when any inspection or test shall take place, and each Party may have representatives present at the test or inspection. If a meter is found to be inaccurate or defective, it shall be adjusted, repaired or replaced, at Idaho Power's expense in order to provide accurate metering. If a meter fails to register, or if the measurement made by a meter during a test varies by more than two percent (2 %) from the measurement made by the standard meter used in the test, adjustment (either upward or downward) to the payments Seller has received shall be made to correct those payments affected by the inaccurate meter for the actual period during which inaccurate measurements were made. If the actual period cannot be determined, corrections to the payments will be based on the shorter of (1) a period equal to one-half the time from the date of the last previous test of the meter to the date of the test which established the inaccuracy of the meter; or (2) six (6) months.

11.3 Telemetry – Idaho Power will install, operate and maintain at Seller's expense metering, communications and telemetry equipment which will be capable of providing Idaho Power with continuous instantaneous telemetry of Seller's Net Energy and Inadvertent Energy produced and delivered to the Idaho Power Point of Delivery to Idaho Power's Designated Dispatch Facility.

ARTICLE XII - RECORDS

12.1 Maintenance of Records - Seller shall maintain at the Facility or such other location mutually acceptable to the Parties adequate total generation, Net Energy, Station Use, Inadvertent Energy and maximum generation (kW) records in a form and content recommended by Idaho Power.

12.2 Inspection - Either Party, after reasonable notice to the other Party, shall have the right, during

normal business hours, to inspect and audit any or all generation, Net Energy, Station Use, Inadvertent Energy and maximum generation (kW) records pertaining to the Seller's Facility.

ARTICLE XIII - PROTECTION

- 13.1 Seller shall construct, operate and maintain the Facility and Seller-furnished Interconnection Facilities in accordance with Schedule 72, the Generation Interconnection Process, Appendix B of this Agreement, Prudent Electrical Practices, the National Electrical Code, the National Electrical Safety Code and any other applicable local, state and federal codes. Seller acknowledges receipt of the Generation Interconnection Process. If, in the reasonable opinion of Idaho Power, Seller's operation of the Facility or Interconnection Facilities is unsafe or may otherwise adversely affect Idaho Power's equipment, personnel or service to its customers, Idaho Power may physically interrupt the flow of energy from the Facility as specified within Schedule 72, the Generation Interconnection Process or take such other reasonable steps as Idaho Power deems appropriate. Except in the case of an emergency, Idaho Power will attempt to notify Seller of such interruption prior to its occurrence as provided in paragraph 14.9. Seller shall provide and maintain adequate protective equipment sufficient to prevent damage to the Facility and Seller-furnished Interconnection Facilities. In some cases, some of Seller's protective relays will provide back-up protection for Idaho Power's facilities. In that event, Idaho Power will test such relays annually and Seller will pay the actual cost of such annual testing.

ARTICLE XIV: OPERATIONS

- 14.1 Communications - Idaho Power and the Seller shall maintain appropriate operating communications through Idaho Power's Designated Dispatch Facility in accordance with Appendix A of this Agreement.
- 14.2 Energy Acceptance -
- 14.2.1 Idaho Power shall be excused from accepting and paying for Net Energy or accepting

Inadvertent Energy produced by the Facility and delivered by the Seller to the Point of Delivery, if it is prevented from doing so by an event of Force Majeure, or if Idaho Power determines that curtailment, interruption or reduction of Net Energy or Inadvertent Energy deliveries is necessary because of line construction or maintenance requirements, emergencies, electrical system operating conditions on its system or as otherwise required by Prudent Electrical Practices. If, for reasons other than an event of Force Majeure, Idaho Power requires such a curtailment, interruption or reduction of Net Energy deliveries for a period that exceeds twenty (20) days, beginning with the twenty-first day of such interruption, curtailment or reduction, Seller will be deemed to be delivering Net Energy at a rate equivalent to the pro rata daily average of the amounts specified for the applicable month in paragraph 6.2. Idaho Power will notify Seller when the interruption, curtailment or reduction is terminated.

14.2.2 If, in the reasonable opinion of Idaho Power, Seller's operation of the Facility or Interconnection Facilities is unsafe or may otherwise adversely affect Idaho Power's equipment, personnel or service to its customers, Idaho Power may physically interrupt the flow of energy from the Facility as specified within Schedule 72 or take such other reasonable steps as Idaho Power deems appropriate.

14.2.3 Under no circumstances will the Seller deliver Net Energy and/or Inadvertent Energy from the Facility to the Point of Delivery in an amount that exceeds the Maximum Capacity Amount. Seller's failure to limit deliveries to the Maximum Capacity Amount will be a Material Breach of this Agreement.

14.3 Seller Declared Suspension of Energy Deliveries

14.3.1 If the Seller's Facility experiences a forced outage due to equipment failure which is not caused by an event of Force Majeure or by neglect, disrepair or lack of adequate preventative maintenance of the Seller's Facility, Seller may, after giving notice as provided in paragraph 14.3.2 below, temporarily suspend all deliveries of Net Energy to Idaho Power from the Facility or from individual generation unit(s) within the Facility

impacted by the forced outage for a period of not less than 48 hours to correct the forced outage condition ("Declared Suspension of Energy Deliveries"). The Seller's Declared Suspension of Energy Deliveries will begin at the start of the next full hour following the Seller's telephone notification as specified in paragraph 14.3.2 and will continue for the time as specified (not less than 48 hours) in the written notification provided by the Seller. In the month(s) in which the Declared Suspension of Energy occurred, the Net Energy Amount will be adjusted as specified in paragraph 6.2.4.

14.3.2 If the Seller desires to initiate a Declared Suspension of Energy Deliveries as provided in paragraph 14.3.1, the Seller will notify the Designated Dispatch Facility by telephone. The beginning hour of the Declared Suspension of Energy Deliveries will be at the earliest the next full hour after making telephone contact with Idaho Power. The Seller will, within 24 hours after the telephone contact, provide Idaho Power a written notice in accordance with Article XXVIII that will contain the beginning hour and duration of the Declared Suspension of Energy Deliveries and a description of the conditions that caused the Seller to initiate a Declared Suspension of Energy Deliveries. Idaho Power will review the documentation provided by the Seller to determine Idaho Power's acceptance of the described forced outage as qualifying for a Declared Suspension of Energy Deliveries as specified in paragraph 14.3.1. Idaho Power's acceptance of the Seller's forced outage as an acceptable forced outage will be based upon the clear documentation provided by the Seller that the forced outage is not due to an event of Force Majeure or by neglect, disrepair or lack of adequate preventative maintenance of the Seller's Facility.

14.5 Voltage Levels - Seller, in accordance with Prudent Electrical Practices shall minimize voltage fluctuations and maintain voltage levels acceptable to Idaho Power. Idaho Power may, in accordance with Prudent Electrical Practices, upon one hundred eighty (180) days' notice to the Seller, change its nominal operating voltage level by more than ten percent (10%) at the Point of Delivery, in which case Seller shall modify, at Idaho Power's expense, Seller's equipment as necessary to accommodate the modified nominal operating voltage level.

- 14.6 Generator Ramping - Idaho Power, in accordance with Prudent Electrical Practices, shall have the right to limit the rate that generation is changed at startup, during normal operation or following reconnection to Idaho Power's electrical system. Generation ramping may be required to permit Idaho Power's voltage regulation equipment time to respond to changes in power flow.
- 14.7 Scheduled Maintenance – On or before January 31 of each calendar year, Seller shall submit a written proposed maintenance schedule of significant Facility maintenance for that calendar year and Idaho Power and Seller shall mutually agree as to the acceptability of the proposed schedule. The Parties determination as to the acceptability of the Seller's timetable for scheduled maintenance will take into consideration Prudent Electrical Practices, Idaho Power system requirements and the Seller's preferred schedule. Neither Party shall unreasonably withhold acceptance of the proposed maintenance schedule.
- 14.8 Maintenance Coordination - The Seller and Idaho Power shall, to the extent practical, coordinate their respective line and Facility maintenance schedules such that they occur simultaneously.
- 14.9 Contact Prior to Curtailment - Idaho Power will make a reasonable attempt to contact the Seller prior to exercising its rights to curtail, interrupt or reduce deliveries from the Seller's Facility. Seller understands that in the case of emergency circumstances, real time operations of the electrical system, and/or unplanned events Idaho Power may not be able to provide notice to the Seller prior to interruption, curtailment, or reduction of electrical energy deliveries to Idaho Power.

ARTICLE XV: INDEMNIFICATION AND INSURANCE

- 15.1 Indemnification - Each Party shall agree to hold harmless and to indemnify the other Party, its officers, agents, affiliates, subsidiaries, parent company and employees against all loss, damage, expense and liability to third persons for injury to or death of person or injury to property, proximately caused by the indemnifying Party's construction, ownership, operation or maintenance of, or by failure of, any of such Party's works or facilities used in connection with this Agreement. The indemnifying Party shall, on the other Party's request, defend any suit

asserting a claim covered by this indemnity. The indemnifying Party shall pay all costs, including reasonable attorney fees that may be incurred by the other Party in enforcing this indemnity.

15.2 Insurance - During the term of this Agreement, Seller shall secure and continuously carry the following insurance coverage:

15.2.1 Comprehensive General Liability Insurance for both bodily injury and property damage with limits equal to \$1,000,000, each occurrence, combined single limit. The deductible for such insurance shall be consistent with current Insurance Industry Utility practices for similar property.

15.2.2 The above insurance coverage shall be placed with an insurance company with an A.M. Best Company rating of A- or better and shall include:

- (a) An endorsement naming Idaho Power as an additional insured and loss payee as applicable; and
- (b) A provision stating that such policy shall not be canceled or the limits of liability reduced without sixty (60) days' prior written notice to Idaho Power.

15.3 Seller to Provide Certificate of Insurance - As required in paragraph 4.1.5 herein and annually thereafter, Seller shall furnish Idaho Power a certificate of insurance, together with the endorsements required therein, evidencing the coverage as set forth above.

15.4 Seller to Notify Idaho Power of Loss of Coverage - If the insurance coverage required by paragraph 15.2 shall lapse for any reason, Seller will immediately notify Idaho Power in writing. The notice will advise Idaho Power of the specific reason for the lapse and the steps Seller is taking to reinstate the coverage. Failure to provide this notice and to expeditiously reinstate or replace the coverage will constitute a Material Breach of this Agreement.

ARTICLE XVI: FORCE MAJEURE

16.1 As used in this Agreement, "Force Majeure" or "an event of Force Majeure" means any cause beyond the control of the Seller or of Idaho Power which, despite the exercise of due diligence, such Party is unable to prevent or overcome. Force Majeure includes, but is not limited to, acts of

God, fire, flood, storms, wars, hostilities, civil strife, strikes and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, or changes in law or regulation occurring after the Operation Date, which, by the exercise of reasonable foresight such party could not reasonably have been expected to avoid and by the exercise of due diligence, it shall be unable to overcome. If either Party is rendered wholly or in part unable to perform its obligations under this Agreement because of an event of Force Majeure, both Parties shall be excused from whatever performance is affected by the event of Force Majeure, provided that:

- (1) The non-performing Party shall, as soon as is reasonably possible after the occurrence of the Force Majeure, give the other Party written notice describing the particulars of the occurrence.
- (2) The suspension of performance shall be of no greater scope and of no longer duration than is required by the event of Force Majeure.
- (3) No obligations of either Party which arose before the occurrence causing the suspension of performance and which could and should have been fully performed before such occurrence shall be excused as a result of such occurrence.

ARTICLE XVII: LAND RIGHTS

17.1 Seller to Provide Access - Seller hereby grants to Idaho Power for the term of this Agreement all necessary rights-of-way and easements to install, operate, maintain, replace, and remove Idaho Power's Metering Equipment, Interconnection Equipment, Disconnection Equipment, Protection Equipment and other Special Facilities necessary or useful to this Agreement, including adequate and continuing access rights on property of Seller. Seller warrants that it has procured sufficient easements and rights-of-way from third parties so as to provide Idaho Power with the access described above. All documents granting such easements or rights-of-way shall be subject to Idaho Power's approval and in recordable form.

17.2 Use of Public Rights-of-Way - The Parties agree that it is necessary to avoid the adverse

environmental and operating impacts that would occur as a result of duplicate electric lines being constructed in close proximity. Therefore, subject to Idaho Power's compliance with paragraph 17.4, Seller agrees that should Seller seek and receive from any local, state or federal governmental body the right to erect, construct and maintain Seller-furnished Interconnection Facilities upon, along and over any and all public roads, streets and highways, then the use by Seller of such public right-of-way shall be subordinate to any future use by Idaho Power of such public right-of-way for construction and/or maintenance of electric distribution and transmission facilities and Idaho Power may claim use of such public right-of-way for such purposes at any time. Except as required by paragraph 17.4, Idaho Power shall not be required to compensate Seller for exercising its rights under this paragraph 17.2.

17.3 Joint Use of Facilities - Subject to Idaho Power's compliance with paragraph 17.4, Idaho Power may use and attach its distribution and/or transmission facilities to Seller's Interconnection Facilities, may reconstruct Seller's Interconnection Facilities to accommodate Idaho Power's usage or Idaho Power may construct its own distribution or transmission facilities along, over and above any public right-of-way acquired from Seller pursuant to paragraph 17.2, attaching Seller's Interconnection Facilities to such newly constructed facilities. Except as required by paragraph 17.4, Idaho Power shall not be required to compensate Seller for exercising its rights under this paragraph 17.3.

17.4 Conditions of Use - It is the intention of the Parties that the Seller be left in substantially the same condition, both financially and electrically, as Seller existed prior to Idaho Power's exercising its rights under this Article XVII. Therefore, the Parties agree that the exercise by Idaho Power of any of the rights enumerated in paragraphs 17.2 and 17.3 shall: (1) comply with all applicable laws, codes and Prudent Electrical Practices, (2) equitably share the costs of installing, owning and operating jointly used facilities and rights-of-way. If the Parties are unable to agree on the method of apportioning these costs, the dispute will be submitted to the Commission for resolution and the decision of the Commission will be binding on the Parties, and (3) shall provide Seller with an interconnection to Idaho Power's system of equal capacity and durability

as existed prior to Idaho Power exercising its rights under this Article XVII.

ARTICLE XVIII: LIABILITY; DEDICATION

18.1 Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public or affect the status of Idaho Power as an independent public utility corporation or Seller as an independent individual or entity.

ARTICLE XIX: SEVERAL OBLIGATIONS

19.1 Except where specifically stated in this Agreement to be otherwise, the duties, obligations and liabilities of the Parties are intended to be several and not joint or collective. Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or impose a trust or partnership duty, obligation or liability on or with regard to either Party. Each Party shall be individually and severally liable for its own obligations under this Agreement.

ARTICLE XX: WAIVER

20.1 Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or other matter.

ARTICLE XXI: CHOICE OF LAWS AND VENUE

21.1 This Agreement shall be construed and interpreted in accordance with the laws of the State of Idaho without reference to its choice of law provisions.

21.2 Venue for any litigation arising out of or related to this Agreement will lie in the District Court of the Fourth Judicial District of Idaho in and for the County of Ada.

ARTICLE XXII: DISPUTES AND DEFAULT

22.1 Disputes - All disputes related to or arising under this Agreement, including, but not limited to, the interpretation of the terms and conditions of this Agreement, will be submitted to the Commission for resolution.

22.2 Notice of Default -

22.2.1 Defaults. If either Party fails to perform any of the terms or conditions of this Agreement (an "event of default"), the nondefaulting Party shall cause notice in writing to be given to the defaulting Party, specifying the manner in which such default occurred. If the defaulting Party shall fail to cure such default within the sixty (60) days after service of such notice, or if the defaulting Party reasonably demonstrates to the other Party that the default can be cured within a commercially reasonable time but not within such sixty (60) day period and then fails to diligently pursue such cure, then, the nondefaulting Party may, at its option, terminate this Agreement and/or pursue its legal or equitable remedies.

22.2.2 Material Breaches – The notice and cure provisions in paragraph 22.2.1 do not apply to defaults identified in this Agreement as Material Breaches. Material Breaches must be cured as expeditiously as possible following occurrence of the breach.

22.3 Security for Performance - Prior to the Operation Date and thereafter for the full term of this Agreement, Seller will provide Idaho Power with the following:

22.3.1 Insurance - Evidence of compliance with the provisions of paragraph 15.2. If Seller fails to comply, such failure will be a Material Breach and may only be cured by Seller supplying evidence that the required insurance coverage has been replaced or reinstated;

22.3.2 Engineer's Certifications - Every three (3) years after the Operation Date, Seller will supply Idaho Power with a Certification of Ongoing Operations and Maintenance (O & M) from a Registered Professional Engineer licensed in the State of Idaho, which Certification of Ongoing O & M shall be in the form specified in Appendix C. Seller's

failure to supply the required certificate will be an event of default. Such a default may only be cured by Seller providing the required certificate; and

22.3.3 Licenses and Permits - During the full term of this Agreement, Seller shall maintain compliance with all permits and licenses described in paragraph 4.1.1 of this Agreement. In addition, Seller will supply Idaho Power with copies of any new or additional permits or licenses. At least every fifth Contract Year, Seller will update the documentation described in Paragraph 4.1.1. If at any time Seller fails to maintain compliance with the permits and licenses described in paragraph 4.1.1 or to provide the documentation required by this paragraph, such failure will be an event of default and may only be cured by Seller submitting to Idaho Power evidence of compliance from the permitting agency.

ARTICLE XXIII: GOVERNMENTAL AUTHORIZATION

23.1 This Agreement is subject to the jurisdiction of those governmental agencies having control over either Party of this Agreement.

ARTICLE XXIV: COMMISSION ORDER

24.1 This Agreement shall become finally effective upon the Commission's approval of all terms and provisions hereof without change or condition and declaration that all payments to be made to Seller hereunder shall be allowed as prudently incurred expenses for ratemaking purposes.

ARTICLE XXV: SUCCESSORS AND ASSIGNS

25.1 This Agreement and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties hereto, except that no assignment hereof by either Party shall become effective without the written consent of both Parties being first obtained. Such consent shall not be unreasonably withheld. Notwithstanding the foregoing, any party which Idaho Power may consolidate, or into which it may merge, or to which it may

convey or transfer substantially all of its electric utility assets, shall automatically, without further act, and without need of consent or approval by the Seller, succeed to all of Idaho Power's rights, obligations and interests under this Agreement. This article shall not prevent a financing entity with recorded or secured rights from exercising all rights and remedies available to it under law or contract. Idaho Power shall have the right to be notified by the financing entity that it is exercising such rights or remedies.

ARTICLE XXVI: MODIFICATION

- 26.1 No modification to this Agreement shall be valid unless it is in writing and signed by both Parties and subsequently approved by the Commission.

ARTICLE XXVII: TAXES

- 27.1 Each Party shall pay before delinquency all taxes and other governmental charges which, if failed to be paid when due, could result in a lien upon the Facility or the Interconnection Facilities.

ARTICLE XXVIII: NOTICES

- 28.1 All written notices under this agreement shall be directed as follows and shall be considered delivered when deposited in the U. S. Mail, first-class postage prepaid, as follows:

To Seller:

Original document to:

Cassia Gulch wind park LLC
Attn: Jared Grover
4200 North Cloverdale Rd
Boise, Idaho 83713

Copy of document to:

John Deere Wind Energy
c/o John Deere Credit
6400 NW 86th Street
Johnston, IA 50131
Attn: Assistant Chief Counsel – Wind Energy

To Idaho Power:

Original document to:

Vice President, Power Supply
Idaho Power Company
P O Box 70
Boise, Idaho 83707

Copy of document to:

Cogeneration and Small Power Production
Idaho Power Company
P O Box 70
Boise, Idaho 83707

ARTICLE XXIX: ADDITIONAL TERMS AND CONDITIONS

29.1 This Agreement includes the following appendices, which are attached hereto and included by reference:

Appendix A	-	Generation Scheduling and Reporting
Appendix B	-	Facility and Point of Delivery
Appendix C	-	Engineer's Certifications

ARTICLE XXX: SEVERABILITY

30.1 The invalidity or unenforceability of any term or provision of this Agreement shall not affect the validity or enforceability of any other terms or provisions and this Agreement shall be construed in all other respects as if the invalid or unenforceable term or provision were omitted.

ARTICLE XXXI: COUNTERPARTS

31.1 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

ARTICLE XXXII: ENTIRE AGREEMENT

32.1 This Agreement constitutes the entire Agreement of the Parties concerning the subject matter

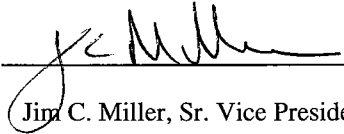
hereof and supersedes all prior or contemporaneous oral or written agreements between the Parties concerning the subject matter hereof.

IN WITNESS WHEREOF, The Parties hereto have caused this Agreement to be executed in their respective names on the dates set forth below:

Idaho Power Company

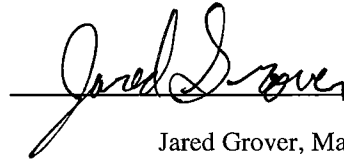
Cassia Wind Farm L.L.C.

By



Jim C. Miller, Sr. Vice President, Power Supply

By



Jared Grover, Manager

Dated

April 7, 2006
"Idaho Power"

Dated

April 7 2006
"Seller"

APPENDIX A

A -1 MONTHLY POWER PRODUCTION AND SWITCHING REPORT

At the end of each month the following required documentation will be submitted to:

Idaho Power Company
Attn: Cogeneration and Small Power Production
P O Box 70
Boise, Idaho 83707

The Meter readings required on this report will be the reading on the Idaho Power Meter Equipment measuring the Facility's total energy production, Station Usage, Inadvertent Energy delivered to Idaho Power and the maximum generated energy (kW) as recorded on the Meter Equipment and/or any other required energy measurements to adequately administer this Agreement.

Idaho Power Company

Cogeneration and Small Power Production

MONTHLY POWER PRODUCTION AND SWITCHING REPORT

Month _____

Year _____

Project Name _____

Project Number: _____

Address _____

Phone Number: _____

City _____

State _____

Zip _____

	<u>Facility Output</u>	<u>Station Usage</u>	<u>Station Usage</u>	<u>Metered Maximum Generation</u>
Meter Number: _____	_____	_____	_____	kW
End of Month kWh Meter Reading: _____	_____	_____	_____	
Beginning of Month kWh Meter: _____	_____	_____	_____	
Difference: _____	_____	_____	_____	<u>Net Generation</u>
Times Meter Constant: _____	_____	_____	_____	
kWh for the Month: _____	-	-	=	
Metered Demand: _____	_____	_____	_____	

Breaker Opening Record

Breaker Closing Record

<u>Date</u>	<u>Time</u>	<u>Meter</u>

* <u>Reason</u>

<u>Date</u>	<u>Time</u>	<u>Meter</u>

- * **Breaker Opening Reason Codes**
- 1 Lack of Adequate Prime Mover
 - 2 Forced Outage of Facility
 - 3 Disturbance of IPCo System
 - 4 Scheduled Maintenance
 - 5 Testing of Protection Systems
 - 6 Cause Unknown
 - 7 Other (Explain)

I hereby certify that the above meter readings are true and correct as of Midnight on the last day of the above month and that the switching record is accurate and complete as required by the Firm Energy Sales Agreement to which I am a Party.

Signature

Date

A-2 ROUTINE REPORTING

Idaho Power Contact Information

Daily Energy Production Reporting

Call daily by 10 a.m., 1-800-356-4328 or 1-800-635-1093 and leave the following information:

- Project Identification - Project Name and Project Number
- Current Meter Reading
- Estimated Generation for the current day
- Estimated Generation for the next day

Planned and Unplanned Project outages

Call 1-800-345-1319 and leave the following information:

- Project Identification - Project Name and Project Number
- Approximate time outage occurred
- Estimated day and time of project coming back online

Seller's Contact Information

24-Hour Project Operational Contact

Name: Karl-Heinz Mertins
Telephone Number: 515-267-4250
Cell Phone: 612-309-8800

Project On-site Contact information

Name: Jared Grover
Telephone Number: 208-323-6155
Cell Phone: 208-371-4066

APPENDIX B

FACILITY AND POINT OF DELIVERY

PROJECT NO. 31318100

CASSIA WIND FARM

B-1 DESCRIPTION OF FACILITY

The Facility will consist of 5 Suzlon, model S88 Wind turbines with individual generator ratings of 2.1 MW for each unit, for a total Facility generator rating of 10.5 MW.

B-2 LOCATION OF FACILITY

Near: Hagerman, Idaho – the area known as Bell Rapids

Sections: 2 and 3 Township: 7 South Range: 12 East County: Twin Falls Idaho.

B-3 SCHEDULED FIRST ENERGY AND OPERATION DATE

Seller has selected August 31, 2006 as the estimated Scheduled First Energy Date.

Seller has selected December 31, 2006 as the estimated Scheduled Operation Date.

In making these selections, Seller recognizes that adequate testing of the Facility and completion of all requirements in paragraph 5.2 of this Agreement must be completed prior to the project being granted an Operation Date. Idaho Power, based on the information supplied by the Seller, will schedule its construction in accordance with Schedule 72 and the Generation Interconnection Process.

B-4 MAXIMUM CAPACITY AMOUNT: This value will be 10.5 MW which is consistent with the value provided by the Seller to Idaho Power in the Generation Interconnection process. This value is the maximum energy (MW) that potentially could be delivered by the Seller's Facility to the Idaho Power electrical system at any moment in time.

B-5 POINT OF DELIVERY

“Point of Delivery” means, unless otherwise agreed by both Parties, the point of where the Sellers Facility’s energy is delivered to the Idaho Power electrical system. The Idaho Power Generation Interconnection process will determine the specific Point of Delivery for this Facility. Upon completion of the Generation Interconnection process the Point of Delivery identified by this process will become an integral part of this Agreement.

B-6 LOSSES

If the Idaho Power Metering equipment is capable of measuring the exact energy deliveries by the Seller to the Idaho Power electrical system at the Point of Delivery, no Losses will be calculated for this Facility. If the Idaho Power Metering is unable to measure the exact energy deliveries by the Seller to the Idaho Power electrical system at the Point of Delivery, a Losses calculation will be established to measure the energy losses (kWh) between the Seller’s Facility and the Idaho Power Point of Delivery. This loss calculation will be initially set at 2% of the kWh energy production recorded on the Facility generation metering equipment. At such time as Seller provides Idaho Power with the electrical equipment specifications (transformer loss specifications, conductor sizes, etc) of all of the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power will configure a revised loss calculation formula to be agreed to by both parties and used to calculate the kWh Losses for the remaining term of the Agreement. If at anytime during the term of this Agreement, Idaho Power determines that the loss calculation does not correctly reflect the actual kWh losses attributed to the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power may adjust the calculation and retroactively adjust the previous months kWh loss calculations.

B-7 METERING AND TELEMETRY

The Idaho Power Generation Interconnection process will determine the specific metering and

telemetry requirements for this Facility. At the minimum the Metering Equipment and Telemetry equipment must be able to provide and record hourly energy deliveries to the Point of Delivery and any other energy measurements required to administer this Agreement. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Seller will arrange for and make available at Seller's cost communication circuit(s) compatible to Idaho Power's communications equipment and dedicated to Idaho Power's use terminating at the Idaho Power facilities capable of providing Idaho Power with continuous instantaneous information on the Facilities energy production. Idaho Power provided equipment will be owned and maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total metering cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

B-7 SPECIAL FACILITIES

The Idaho Power Generation Interconnection process will determine the Special Facility requirements for this Facility. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Idaho Power owned equipment will be maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total

Special Facility cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

B-8 REACTIVE POWER

The Idaho Power Generation Interconnection process will determine the reactive power required to be supplied by Idaho Power to the Seller, based upon information provided by the Seller. The Generation Interconnection process will specify the equipment required on the Idaho Power system to meet the Facility's reactive power requirements. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Idaho Power owned equipment will be maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total reactive power cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

B-9 DISCONNECTION EQUIPMENT

Disconnection Equipment is required to insure that the Seller's Facility will be disconnected from Idaho Power's system in the event of (1) the Seller's delivery of energy exceeds the Maximum Capacity Amount or (2) Idaho Power or the Seller require interruption or curtailment of energy deliveries to Idaho Power or (3) a disturbance on either Idaho Power's system or the Seller's Facility. The Idaho Power Generation Interconnection process will determine the Disconnection Equipment specifications and requirements for this Facility, this equipment is for protection of the Idaho Power system and equipment only. These specifications will include but not be limited

to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. Seller will install all Seller provided equipment, control wire and conduit necessary for the operation of the Disconnection Equipment. Through the Generation Interconnection process, Idaho Power will supply details for the disconnection panel and will test the equipment prior to any operations of the Facility, Seller will provide drawings of their interconnection wiring for engineering approval prior to installation. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Idaho Power owned equipment will be maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total Disconnection Equipment cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

B-10 COSTS

The Idaho Power Generation Interconnection process and this Agreement will identify all cost for this Facility to interconnect to the Idaho Power system, including but not limited to the cost of Metering equipment, Telemetry equipment, Special Facilities, Reactive Power, Disconnection equipment, Protection equipment and Interconnection Equipment. As specified in the Generation Interconnection process and in accordance with Schedule 72 and this Agreement the Seller will reimburse Idaho Power for all costs associated with this equipment. In addition to the equipment, installation and construction charges as specified above, during the term of this Agreement, Seller will pay Idaho Power the monthly operation and maintenance charge specified in Schedule 72 or its successor schedules(s). The monthly operations and maintenance charge will begin on the first day of the month following the date which Idaho Power has completed installation of the Idaho Power provided equipment and the interconnection equipment is available for use by the

Facility. The monthly operations and maintenance charge will be based upon the initial cost paid by the Seller in accordance with Schedule 72. Upon reconciliation of the actual costs, in accordance with Schedule 72 the monthly operations and maintenance charge will be adjusted to reflect the actual cost incurred by Idaho Power and previously charged monthly operation and maintenance expense will be revised to reflect the actual cost incurred by Idaho Power. Idaho Power will refund or Seller will remit any underpayment of the adjusted monthly operations and maintenance charge within sixty (60) days of the determination of this amount.

B-11 SALVAGE

No later than sixty (60) days after the termination or expiration of this Agreement, Idaho Power will prepare and forward to Seller an estimate of the remaining value of those Idaho Power furnished Interconnection Facilities as required under Schedule 72, the Generation Interconnection Process and/or described in this Agreement, less the cost of removal and transfer to Idaho Power's nearest warehouse, if the Interconnection Facilities will be removed. If Seller elects not to obtain ownership of the Interconnection Facilities but instead wishes that Idaho Power reimburse the Seller for said Facilities the Seller may invoice Idaho Power for the net salvage value as estimated by Idaho Power and Idaho Power shall pay such amount to Seller within thirty (30) days after receipt of the invoice. Seller shall have the right to offset the invoice amount against any present or future payments due Idaho Power.

APPENDIX C

ENGINEER'S CERTIFICATION

OF

OPERATIONS & MAINTENANCE POLICY

The undersigned _____, on behalf of himself and _____, hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter "Agreement," between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as IPCo Facility No. _____ and is hereinafter referred to as the "Project."
4. That the Project, which is commonly known as the _____, is located in Section ____ Township _____, Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a twenty (20) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has reviewed and/or supervised the review of the Policy for Operation and Maintenance ("O&M") for this Project and it is his professional opinion that, provided said Project has been designed and built to appropriate standards, adherence to said O&M Policy will result in the

Project's producing at or near the design electrical output, efficiency and plant factor for a twenty (20) year period.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.

10. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____

(P.E. Stamp)

Date _____

APPENDIX C

ENGINEER'S CERTIFICATION

OF

ONGOING OPERATIONS AND MAINTENANCE

The undersigned _____, on behalf of himself and _____ hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter "Agreement," between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as IPCo Facility No. _____ and hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the _____ Project, is located at _____.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a twenty (20) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has made a physical inspection of said Project, its operations and maintenance records since the last previous certified inspection. It is Engineer's professional opinion, based on the Project's appearance, that its ongoing O&M has been substantially in accordance with said O&M Policy; that it is in reasonably good operating condition; and that if adherence to said O&M Policy continues, the Project will continue producing at or near its design electrical output, efficiency and plant factor for the remaining _____ years of the Agreement.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.

10. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____

(P.E. Stamp)

Date _____

APPENDIX C
ENGINEER'S CERTIFICATION
OF
DESIGN & CONSTRUCTION ADEQUACY

The undersigned _____, on behalf of himself and _____, hereinafter collectively referred to as "Engineer", hereby states and certifies to Idaho Power as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Firm Energy Sales Agreement, hereinafter "Agreement", between Idaho Power as Buyer, and _____ as Seller, dated _____, _____.
3. That the cogeneration or small power production project, which is the subject of the Agreement and this Statement, is identified as IPCo Facility No _____ and is hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the _____ Project, is located in Section _____, Township _____, Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a _____ (____) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project and has made the analysis of the plans and specifications independently.
8. That Engineer has reviewed the engineering design and construction of the Project, including the civil work, electrical work, generating equipment, prime mover conveyance system, Seller furnished Interconnection Facilities and other Project facilities and equipment.

9. That the Project has been constructed in accordance with said plans and specifications, all applicable codes and consistent with Prudent Electrical Practices as that term is described in the Agreement.

10. That the design and construction of the Project is such that with reasonable and prudent operation and maintenance practices by Seller, the Project is capable of performing in accordance with the terms of the Agreement and with Prudent Electrical Practices for a _____ (_____) year period.

11. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, in interconnecting the Project with its system, is relying on Engineer's representations and opinions contained in this Statement.

12. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____
(P.E. Stamp)

Date _____

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR) **CASE NO. IPC-E-06-10**
APPROVAL OF A FIRM ENERGY SALES)
AGREEMENT FOR THE SALE AND)
PURCHASE OF ELECTRIC ENERGY)
BETWEEN IDAHO POWER COMPANY) **ORDER NO. 30086**
AND CASSIA WIND FARM, LLC)

On April 20, 2006, Idaho Power Company (“Idaho Power” or “Company”) filed an Application with the Idaho Public Utilities Commission (“Commission”) requesting approval of a Firm Energy Sales Agreement (the “Agreement”) between Idaho Power and Cassia Wind Farm, LLC (“Cassia Wind”) dated April 7, 2006. Under the Agreement, Cassia Wind would sell and Idaho Power would purchase electric energy generated by Cassia Wind’s wind turbines located near Hagerman, Idaho (the “Project”).

The Cassia Wind facility will be a qualified small power production facility (“QF”) under the applicable provisions of the Public Utility Regulatory Policies Act of 1978 (“PURPA”). Idaho Power contends that the Agreement comports with the terms and conditions of Commission Order No. 29632 (*U.S. Geothermal, et al. v. Idaho Power*) and avoided cost Order No. 29646. The Agreement is for a 20-year term and contains the published non-levelized avoided cost rates set forth in Order No. 29646. Cassia Wind has selected December 31, 2006 as the scheduled operation date for this facility.

On June 2, 2006, the Commission issued Notices of Application and Modified Procedure in this matter. *See* Order No. 30060. The deadline for filing written comments was June 16, 2006. The only comments received were filed by Commission Staff.

STAFF COMMENTS

Staff reviewed the Agreement and believes that it comports with the rates, terms and conditions of Commission Order No. 29632 (*U.S. Geothermal, et al. v. Idaho Power*) and avoided cost Order No. 29646. Staff recommended that the Agreement be approved.

COMMISSION FINDINGS

The Commission has reviewed the filings of record in Case No. IPC-E-06-10, including the underlying Agreement and filed comments. Idaho Power has presented a Firm

Energy Sales Agreement with Cassia Wind for Commission consideration and approval. The Agreement is for a 10.5 MW wind generating facility located near Hagerman, Idaho. As represented and pursuant to contract, under normal and/or average conditions the Project will not exceed 10 aMW on a monthly basis. We thus find that the Project is qualified to receive the published avoided cost rates approved by the Commission.

The Commission finds that the Agreement submitted in this case contains acceptable contract provisions and includes the non-levelized published rates approved by the Commission in Order No. 29646. We find it reasonable that the submitted Agreement be approved without further notice or procedure. IDAPA 31.01.01.204. We further find it reasonable to allow payments made under the Agreement as prudently incurred expenses for ratemaking purposes.

CONCLUSIONS OF LAW


The Idaho Public Utilities Commission has jurisdiction over Idaho Power Company, an electric utility, pursuant to the authority and power granted it under Title 61 of the Idaho Code and the Public Utility Regulatory Policies Act of 1978 (PURPA). The Commission has authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed term obligations for the purchase of energy from qualified facilities and to implement FERC rules.

ORDER

IT IS HEREBY ORDERED that the Commission approves the April 7, 2006 Firm Energy Sales Agreement between Idaho Power Company and Cassia Wind Farm, LLC.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.


DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 30th
day of June 2006.



PAUL KJELLANDER, PRESIDENT

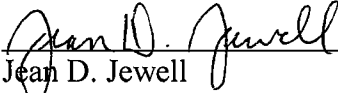


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

O:IPC-E-06-10_cg2

Exhibit 6



IDAHO POWER COMPANY
P.O. BOX 70
BOISE, IDAHO 83707

MONICA MOEN
Attorney

April 20, 2006

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington Street
P. O. Box 83720
Boise, Idaho 83720-0074

Re: Case No. IPC-E-06-11
Application For Approval of Firm Energy Sales Agreement
Between Idaho Power Company and Cassia Gulch Wind Park, LLC

Dear Ms. Jewell:

Please find enclosed for filing an original and seven (7) copies of Idaho Power Company's Application for approval of a Firm Energy Sales Agreement between Idaho Power and Cassia Gulch Wind park, LLC.

I would appreciate it if you would return a stamped copy of this transmittal letter in the enclosed self-addressed, stamped envelope.

Very truly yours,

Monica Moen

MM:jb
Enclosures

MONICA MOEN, ISB # 5734
BARTON KLINE, ISB # 1526
Idaho Power Company
1221 West Idaho Street
P. O. Box 70
Boise, Idaho 83707
Telephone: (208) 388-2692
FAX Telephone: (208) 388-6936

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PUBLIC UTILITIES COMMISSION

Attorney for Idaho Power Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)
IDAHO POWER COMPANY FOR APPROVAL)
OF A FIRM ENERGY SALES AGREEMENT)
FOR THE SALE AND PURCHASE OF)
ELECTRIC ENERGY BETWEEN IDAHO)
POWER COMPANY AND CASSIA GULCH)
WIND PARK, LLC.)
_____)

CASE NO. IPC-E-06- 11

APPLICATION

COMES NOW Idaho Power Company ("Idaho Power" or the "Company") and, pursuant to RP 52, hereby applies for an Idaho Public Utilities Commission ("IPUC" or the "Commission") Order approving a Firm Energy Sales Agreement between Idaho Power and Cassia Gulch Wind Park, LLC ("Cassia Gulch") under which Cassia Gulch would sell and Idaho Power would purchase electric energy generated by the Cassia Gulch wind generation project located near Hagerman, Idaho in the area known as Bell Rapids (the "Facility").

This Application is based on the following:

I.

On October 27, 2005, Cassia Gulch filed a petition with the Commission requesting a Commission Order determining that Cassia Gulch was exempt from the published rate eligibility cap established in Commission Order 29839. On January 17, 2006, the Commission, in Order No. 29954, determined that Cassia Gulch was entitled to receive exemption from the published rate eligibility cap established in Order No. 29839 provided that Cassia Gulch was able to secure contractual financing and turbine commitment from John Deere Credit within a specified time period. In a Minute Entry dated February 8, 2006, the Commission acknowledged satisfaction of the conditions precedent set forth in Order No. 29954 and recognized that Cassia Gulch was exempt from the published rate eligibility cap established in Order No. 29839.

II.

On April 7, 2006, Idaho Power and Cassia Gulch entered into a Firm Energy Sales Agreement ("Agreement") pursuant to the terms and conditions of Commission Order No. 29632, Commission Order 29954 and the Commission Minute Entry dated February 8, 2006. Under the terms of that Agreement, Cassia Gulch elected to contract with Idaho Power for a 20-year term. Cassia Gulch further elected to contract with the Company using the non-levelized published avoided cost rates as currently established by the Commission for projects that, under normal operating conditions, will not generate more than 10 aMW on a monthly basis.

III.

This Agreement contains the various PURPA terms and conditions previously approved by the Commission in other PURPA agreements and as revised by Commission

IV.

Cassia Gulch proposes to design, construct, install, own, operate and maintain an 18.9 MW wind generating facility. The Facility will be a qualified small power production facility under the applicable provisions of the Public Utilities Regulatory Policy Act of 1978 ("PURPA"). The Facility will consist of nine (9) Suzlon, Model S88, wind turbines with individual generator ratings of 2.1 MW for each unit for a total facility generator rating of 18.9 MW. As provided by the Agreement, Cassia Gulch will be required to provide data on the Facility that Idaho Power will use to confirm that, under normal and/or average conditions, generation from the Facility will not exceed 10 aMW on a monthly basis.

V.

Cassia Gulch has selected August 31, 2006 as the Scheduled First Energy Date and December 31, 2006 as the Scheduled Operation Date for the Facility. As the Agreement specifies, once a project requests and is assigned an Operation Date, various terms of the Agreement are activated, primarily the 90%/110% performance criteria. The Agreement requires that only the monthly variable non-firm price for energy be paid for any energy the Facility delivers to Idaho Power prior to the assignment of an Operation Date for this project.

VI.

The project will be interconnected to the Company's electrical system in accordance with Schedule 72. All applicable interconnection charges and monthly operation and maintenance charges under Schedule 72 will be assessed Cassia Gulch.

VII.

Section 24 of the Agreement provides that the Agreement will not become effective until the Commission has approved all of the Agreement's terms and conditions and declared that all payments Idaho Power makes to Cassia Gulch for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.

VIII.

Within this Agreement, various requirements have been placed upon Cassia Gulch in order for Idaho Power to accept energy deliveries from this project. Idaho Power will confirm that the initial requirements have been completed prior to accepting energy from this Facility. The Company will also monitor the ongoing requirements through the full term of this Agreement. Should the Commission approve this Agreement, Idaho Power intends to consider the Effective Date of the Agreement to be April 7, 2006.

IX.

The Agreement, as signed and submitted by the Parties thereto, contains Non-Levelized Published Avoided Cost Rates in conformity with applicable IPUC Orders.

X.

Service of pleadings, exhibits, orders and other documents relating to this proceeding should be served on the following:

Monica B. Moen, Attorney II
Barton L. Kline, Senior Attorney
Idaho Power Company
P.O. Box 70
Boise, Idaho 83707
mmoen@idahopower.com
bkline@idahopower.com

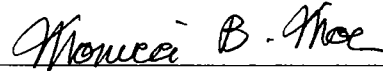
Randy C. Allphin
Contract Administrator
Idaho Power Company
P.O. Box 70
Boise, Idaho 83707
rallphin@idahopower.com

NOW, THEREFORE, based on the foregoing, Idaho Power Company hereby requests that the Commission issue its Order:

(1) Approving the Firm Energy Sales Agreement between Idaho Power Company and Cassia Gulch without change or condition; and

(2) Declaring that all payments for purchases of energy under the Firm Energy Sales Agreement between Idaho Power Company and Cassia Gulch be allowed as prudently incurred expenses for ratemaking purposes.

Respectfully submitted this 20th day of April 2006.



MONICA B. MOEN
Attorney for Idaho Power Company

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 20th day of April 2006, I served a true and correct copy of the within and foregoing APPLICATION upon the following named parties by the method indicated below, and addressed to the following:

Jared Grover, Manager
Cassia Gulch Wind Park LLC
4200 N. Cloverdale Road
Boise, ID 83713

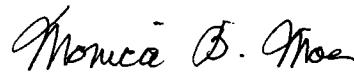
 x

Hand Delivered
U.S. Mail
Overnight Mail
FAX

John Deer Wind Energy
c/o John Deere Credit
6400 NW 86th Street
Johnston, IA 50131
Attn: Assistant Chief Counsel
Wind Energy

 x

Hand Delivered
U.S. Mail
Overnight Mail
FAX



MONICA B. MOEN

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

APR 11 2006 10:57
IDAHO PUBLIC UTILITIES COMMISSION

CASE NO. IPC-E-06- 11

IDAHO POWER COMPANY

EXHIBIT 1

FIRM ENERGY SALES AGREEMENT
BETWEEN
IDAHO POWER COMPANY
AND
CASSIA GULCH WIND PARK LLC
TABLE OF CONTENTS

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IDAHO POWER COMPANY
UTILITIES COMMISSION

<u>Article</u>	<u>TITLE</u>
1	Definitions
2	No Reliance on Idaho Power
3	Warranties
4	Conditions to Acceptance of Energy
5	Term and Operation Date
6	Purchase and Sale of Net Energy
7	Purchase Price and Method of Payment
8	Environmental Attributes
9	Facility and Interconnection
10	Disconnection Equipment
11	Metering and Telemetry
12	Records
13	Protection
14	Operations
15	Indemnification and Insurance
16	Force Majeure
17	Land Rights
18	Liability; Dedication
19	Several Obligations
20	Waiver
21	Choice of Laws and Venue
22	Disputes and Default
23	Governmental Authorization
24	Commission Order
25	Successors and Assigns
26	Modification
27	Taxes
28	Notices
29	Additional Terms and Conditions
30	Severability
31	Counterparts
32	Entire Agreement Signatures
	Appendix A
	Appendix B
	Appendix C

FIRM ENERGY SALES AGREEMENT
(10 aMW or Less)

CASSIA GULCH WIND PARK LLC

Project Number: 31318200

THIS AGREEMENT, entered into on this 7 day of April 2006 between CASSIA GULCH WIND PARK, an Idaho limited liability company (Seller), and IDAHO POWER COMPANY, an Idaho corporation (Idaho Power), hereinafter sometimes referred to collectively as "Parties" or individually as "Party."

WITNESSETH:

WHEREAS, Seller will design, construct, own, maintain and operate an electric generation facility; and

WHEREAS, Seller wishes to sell, and Idaho Power is willing to purchase, firm electric energy produced by the Seller's Facility.

THEREFORE, In consideration of the mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

ARTICLE I: DEFINITIONS

As used in this Agreement and the appendices attached hereto, the following terms shall have the following meanings:

- 1.1 "Commission" - The Idaho Public Utilities Commission.
- 1.2 "Contract Year" - The period commencing each calendar year on the same calendar date as the Operation Date and ending 364 days thereafter.
- 1.3 "Designated Dispatch Facility" - Idaho Power's Systems Operations Group, or any subsequent group designated by Idaho Power.
- 1.4 "Disconnection Equipment" - All equipment specified in Schedule 72 and the Generation Interconnection Process and any additional equipment specified in Appendix B.
- 1.5 "Facility" - That electric generation facility described in Appendix B of this Agreement.

- 1.6 "First Energy Date" - The day commencing at 0001 hours, Mountain Time, following the day that Seller has satisfied the requirements of Article IV and the Seller begins delivering energy to Idaho Power's system at the Point of Delivery.
- 1.7 "Generation Interconnection Process" – Idaho Power's generation interconnection application and engineering review process developed to ensure a safe and reliable generation interconnection in compliance with all applicable regulatory requirements, Prudent Electrical Practices and national safety standards.
- 1.8 "Inadvertent Energy" – Electric energy Seller does not intend to generate. Inadvertent energy is more particularly described in paragraph 7.3 of this Agreement.
- 1.9 "Interconnection Facilities" - All equipment specified in Schedule 72 and the Generation Interconnection Process and any additional equipment specified in Appendix B.
- 1.10 "Initial Capacity Determination" – The process by which Idaho Power confirms that under normal or average design conditions the Facility will generate at no more than 10 average MW per month and is therefore eligible to be paid the published rates in accordance with Commission Order No. 29632.
- 1.11 "Losses" – The loss of electrical energy expressed in kilowatt hours (kWh) occurring as a result of the transformation and transmission of energy between the point where the Facility's energy is metered and the point the Facility's energy is delivered to the Idaho Power electrical system. The loss calculation formula will be as specified in Appendix B of this Agreement.
- 1.12 "Market Energy Cost" – Eighty-five percent (85%) of the weighted average of the daily on-peak and off-peak Dow Jones Mid-Columbia Index (Dow Jones Mid-C Index) prices for non-firm energy. If the Dow Jones Mid-Columbia Index price is discontinued by the reporting agency, both Parties will mutually agree upon a replacement index, which is similar to the Dow Jones Mid-Columbia Index. The selected replacement index will be consistent with other similar agreements and a commonly used index by the electrical industry.
- 1.13 "Material Breach" – A Default (paragraph 22.2.1) subject to paragraph 22.2.2.

- 1.14 “Maximum Capacity Amount” – The maximum capacity (MW) of the Facility will be as specified in Appendix B of this Agreement.
- 1.15 “Metering Equipment” - All equipment specified in Schedule 72, the Generation Interconnection Process, this Agreement and any additional equipment specified in Appendix B required to measure, record and telemeter power flows between the Seller's electric generation plant and Idaho Power's system.
- 1.16 “Net Energy” – All of the electric energy produced by the Facility, less Station Use, less Losses, expressed in kilowatt hours (kWh). Seller commits to deliver all Net Energy to Idaho Power at the Point of Delivery for the full term of the Agreement. Net Energy does not include Inadvertent Energy.
- 1.17 “Operation Date” – The day commencing at 0001 hours, Mountain Time, following the day that all requirements of paragraph 5.2 have been completed.
- 1.18 “Point of Delivery” – The location specified in Appendix B, where Idaho Power's and the Seller's electrical facilities are interconnected.
- 1.19 “Prudent Electrical Practices” – Those practices, methods and equipment that are commonly and ordinarily used in electrical engineering and operations to operate electric equipment lawfully, safely, dependably, efficiently and economically.
- 1.20 “Scheduled Operation Date” – The date specified in Appendix B when Seller anticipates achieving the Operation Date.
- 1.21 “Schedule 72” – Idaho Power's Tariff No 101, Schedule 72 or its successor schedules as approved by the Commission.
- 1.22 “Season” – The three periods identified in paragraph 6.2.1 of this Agreement.
- 1.23 “Special Facilities” - Additions or alterations of transmission and/or distribution lines and transformers as described in Appendix B, Schedule 72 or the Generation Interconnection Process required to safely interconnect the Seller's Facility to the Idaho Power system.
- 1.24 “Station Use” – Electric energy that is used to operate equipment that is auxiliary or otherwise related to the production of electricity by the Facility.

- 1.25 “Surplus Energy” – (1) Net Energy produced by the Seller’s Facility and delivered to the Idaho Power electrical system during the month which exceeds 110% of the monthly Net Energy Amount for the corresponding month specified in paragraph 6.2. or (2) If the Net Energy produced by the Seller’s Facility and delivered to the Idaho Power electrical system during the month is less than 90% of the monthly Net Energy Amount for the corresponding month specified in paragraph 6.2, then all Net Energy delivered by the Facility to the Idaho Power electrical system for that given month or (3) All Net Energy produced by the Seller’s Facility and delivered by the Facility to the Idaho Power electrical system prior to the Operation Date.
- 1.26 “Total Cost of the Facility” - The total cost of structures, equipment and appurtenances.

ARTICLE II: NO RELIANCE ON IDAHO POWER

- 2.1 Seller Independent Investigation - Seller warrants and represents to Idaho Power that in entering into this Agreement and the undertaking by Seller of the obligations set forth herein, Seller has investigated and determined that it is capable of performing hereunder and has not relied upon the advice, experience or expertise of Idaho Power in connection with the transactions contemplated by this Agreement.
- 2.2 Seller Independent Experts - All professionals or experts including, but not limited to, engineers, attorneys or accountants, that Seller may have consulted or relied on in undertaking the transactions contemplated by this Agreement have been solely those of Seller.

ARTICLE III: WARRANTIES

- 3.1 No Warranty by Idaho Power - Any review, acceptance or failure to review Seller’s design, specifications, equipment or facilities shall not be an endorsement or a confirmation by Idaho Power and Idaho Power makes no warranties, expressed or implied, regarding any aspect of Seller’s design, specifications, equipment or facilities, including, but not limited to, safety, durability, reliability, strength, capacity, adequacy or economic feasibility.
- 3.2 Qualifying Facility Status - Seller warrants that the Facility is a “Qualifying Facility,” as that term

is used and defined in 18 CFR §292.207. After initial qualification, Seller will take such steps as may be required to maintain the Facility's Qualifying Facility status during the term of this Agreement and Seller's failure to maintain Qualifying Facility status will be a Material Breach of this Agreement. Idaho Power reserves the right to review the Seller's Qualifying Facility status and associated support and compliance documents at anytime during the term of this Agreement.

ARTICLE IV: CONDITIONS TO ACCEPTANCE OF ENERGY

- 4.1 Prior to the First Energy Date and as a condition of Idaho Power's acceptance of deliveries of energy from the Seller, Seller shall:
- 4.1.1 Submit proof to Idaho Power that all licenses, permits or approvals necessary for Seller's operations have been obtained from applicable federal, state or local authorities, including, but not limited to, evidence of compliance with Subpart B, 18 CFR 292.207.
- 4.1.2 Opinion of Counsel - Submit to Idaho Power an Opinion Letter signed by an attorney admitted to practice and in good standing in the State of Idaho providing an opinion that Seller's licenses, permits and approvals as set forth in paragraph 4.1.1 above are legally and validly issued, are held in the name of the Seller and, based on a reasonable independent review, counsel is of the opinion that Seller is in substantial compliance with said permits as of the date of the Opinion Letter. The Opinion Letter will be in a form acceptable to Idaho Power and will acknowledge that the attorney rendering the opinion understands that Idaho Power is relying on said opinion. Idaho Power's acceptance of the form will not be unreasonably withheld. The Opinion Letter will be governed by and shall be interpreted in accordance with the legal opinion accord of the American Bar Association Section of Business Law (1991).
- 4.1.3 Initial Capacity Determination - Submit to Idaho Power such data as Idaho Power may reasonably require to perform the Initial Capacity Determination. Such data will include but not be limited to, equipment specifications, prime mover data, resource characteristics, normal and/or average operating design conditions and Station Use data.

Upon receipt of this information, Idaho Power will review the provided data and if necessary, request additional data to complete the Initial Capacity Determination within a reasonable time.

- 4.1.4 Engineer's Certifications - Submit an executed Engineer's Certification of Design & Construction Adequacy and an Engineer's Certification of Operations and Maintenance (O&M) Policy as described in Commission Order No. 21690. These certificates will be in the form specified in Appendix C but may be modified to the extent necessary to recognize the different engineering disciplines providing the certificates.
- 4.1.5 Insurance - Submit written proof to Idaho Power of all insurance required in Article XV.
- 4.1.6 Interconnection - Provide written proof to Idaho Power that all Schedule 72 and Generation Interconnection Process requirements have been completed.
- 4.1.7 Written Acceptance - Request and obtain written confirmation from Idaho Power that all conditions to acceptance of energy have been fulfilled. Such written confirmation shall be provided within a commercially reasonable time following the Seller's request and will not be unreasonably withheld by Idaho Power.

ARTICLE V: TERM AND OPERATION DATE

- 5.1 Term - Subject to the provisions of paragraph 5.2 below, this Agreement shall become effective on the date first written and shall continue in full force and effect for a period of twenty (20) Contract Years from the Operation Date.
- 5.2 Operation Date - The Operation Date may occur only after the Facility has achieved all of the following:
 - a) Achieved the First Energy Date.
 - b) Commission approval of this Agreement in a form acceptable to Idaho Power has been received.
 - c) Seller has demonstrated to Idaho Power's satisfaction that the Facility is complete and able to provide energy in a consistent, reliable and safe manner.

- d) Seller has requested an Operation Date from Idaho Power in a written format.
- e) Seller has received written confirmation from Idaho Power of the Operation Date.

This confirmation will not be unreasonably withheld by Idaho Power.

5.3 Seller's failure to achieve the Operation Date within ten (10) months of the Scheduled Operation Date will be an event of default.

ARTICLE VI: PURCHASE AND SALE OF NET ENERGY

6.1 Delivery and Acceptance of Net Energy - Except when either Party's performance is excused as provided herein, Idaho Power will purchase and Seller will sell all of the Net Energy to Idaho Power at the Point of Delivery. All Inadvertent Energy produced by the Facility will also be delivered by the Seller to Idaho Power at the Point of Delivery. At no time will the total amount of Net Energy and/or Inadvertent Energy produced by the Facility and delivered by the Seller to the Point of Delivery exceed the Maximum Capacity Amount.

6.2 Net Energy Amounts - Seller intends to produce and deliver Net Energy in the following monthly amounts:

6.2.1 Initial Year Monthly Net Energy Amounts:

	<u>Month</u>	<u>kWh</u>
Season 1	March	5,508,000
	April	4,446,000
	May	3,654,000
Season 2	July	2,565,000
	August	2,844,000
	November	5,391,000
	December	6,102,000
Season 3	June	3,258,000
	September	3,393,000
	October	4,140,000
	January	3,800,000
	February	5,715,000

6.2.2 Ongoing Monthly Net Energy Amounts - Seller shall initially provide Idaho Power with

one year of monthly generation estimates (Initial Year Monthly Net Energy Amounts) and beginning at the end of month nine and every three months thereafter provide Idaho Power with an additional three months of forward generation estimates. This information will be provided to Idaho Power by written notice in accordance with paragraph 28.1, no later than 5:00 PM of the 5th day following the end of the previous month. If the Seller does not provide the Ongoing Monthly Net Energy amounts in a timely manner, Idaho Power will use the most recent 3 months of the Initial Year Monthly Net Energy Amounts specified in paragraph 6.2.1 for the next 3 months of monthly Net Energy amounts.

6.2.3 Seller's Adjustment of Net Energy Amount –

6.2.3.1 No later than the Operation Date, by written notice given to Idaho Power in accordance with paragraph 28.1, the Seller may revise all of the previously provided Initial Year Monthly Net Energy Amounts.

6.2.3.2 Beginning with the end of the 3rd month after the Operation Date and at the end of every third month thereafter: (1) the Seller may not revise the immediate next three months of previously provided Net Energy Amounts, (2) but by written notice given to Idaho Power in accordance with paragraph 28.1, no later than 5:00 PM of the 5th day following the end of the previous month, the Seller may revise all other previously provided Net Energy Amounts. Failure to provide timely written notice of changed amounts will be deemed to be an election of no change.

6.2.4 Idaho Power Adjustment of Net Energy Amount – If Idaho Power is excused from accepting the Seller's Net Energy as specified in paragraph 14.2.1 or if the Seller declares a Suspension of Energy Deliveries as specified in paragraph 14.3.1 and the Seller's declared Suspension of Energy Deliveries is accepted by Idaho Power, the Net Energy Amount as specified in paragraph 6.2 for the specific month in which the reduction or suspension under paragraph 14.2.1 or 14.3.1 occurs will be reduced in accordance with

the following:

Where:

NEA = Current Month's Net Energy Amount (Paragraph 6.2)

SGU = a.) If Idaho Power is excused from accepting the Seller's Net Energy as specified in paragraph 14.2.1 this value will be equal to the percentage of curtailment as specified by Idaho Power multiplied by the TGU as defined below.

b.) If the Seller declares a Suspension of Energy Deliveries as specified in paragraph 14.3.1 this value will be the sum of the individual generation units size ratings as specified in Appendix B that are impacted by the circumstances causing the Seller to declare a Suspension of Energy Deliveries.

TGU = Sum of all of the individual generator ratings of the generation units at this Facility as specified in Appendix B of this agreement.

RSH = Actual hours the Facility's Net Energy deliveries were either reduced or suspended under paragraph 14.2.1 or 14.3.1

TH = Actual total hours in the current month

Resulting formula being:

$$\text{Adjusted Net Energy Amount} = \text{NEA} - \left(\left(\frac{\text{SGU}}{\text{TGU}} \times \text{NEA} \right) \times \left(\frac{\text{RSH}}{\text{TH}} \right) \right)$$

This Adjusted Net Energy Amount will be used in applicable Surplus Energy calculations for only the specific month in which Idaho Power was excused from accepting the Seller's Net Energy or the Seller declared a Suspension of Energy.

- 6.3 Unless excused by an event of Force Majeure, Seller's failure to deliver Net Energy in any Contract Year in an amount equal to at least ten percent (10%) of the sum of the Initial Year Net Energy Amounts as specified in paragraph 6.2 shall constitute an event of default.

ARTICLE VII: PURCHASE PRICE AND METHOD OF PAYMENT

- 7.1 Net Energy Purchase Price – For all Net Energy, Idaho Power will pay the non-levelized energy

price in accordance with Commission Order 29646 with seasonalization factors applied:

<u>Year</u>	Season 1 - (73.50 %)	Season 2 - (120.00 %)	Season 3 - (100.00 %)
	<u>Mills/kWh</u>	<u>Mills/kWh</u>	<u>Mills/kWh</u>
2006	37.85	61.80	51.50
2007	38.73	63.23	52.69
2008	39.62	64.68	53.90
2009	40.53	66.17	55.14
2010	41.46	67.69	56.41
2011	42.42	69.25	57.71
2012	43.39	70.85	59.04
2013	44.39	72.48	60.40
2014	45.42	74.16	61.80
2015	46.47	75.86	63.22
2016	47.54	77.62	64.68
2017	48.63	79.40	66.17
2018	49.76	81.24	67.70
2019	50.91	83.11	69.26
2020	52.07	85.02	70.85
2021	53.28	86.99	72.49
2022	54.51	88.99	74.16
2023	55.76	91.04	75.87
2024	57.05	93.14	77.62
2025	58.37	95.29	79.41
2026	59.72	97.50	81.25
2027	61.09	99.74	83.12

7.2 Surplus Energy Price - For all Surplus Energy, Idaho Power shall pay to the Seller the current month's Market Energy Cost or the Net Energy Purchase Price specified in paragraph 7.1, whichever is lower.

7.3 Inadvertent Energy –

7.3.1 Inadvertent Energy is electric energy produced by the Facility, expressed in kWh, which the Seller delivers to Idaho Power at the Point of Delivery that exceeds 10,000 kW multiplied by the hours in the specific month in which the energy was delivered. (For example January contains 744 hours. 744 hours times 10,000 kW = 7,440,000 kWh. Energy delivered in January in excess of 7,440, 000 kWh in this example would be Inadvertent Energy.)

7.3.2 Although Seller intends to design and operate the Facility to generate no more than 10

average MW and therefore does not intend to generate Inadvertent Energy, Idaho Power will accept Inadvertent Energy that does not exceed the Maximum Capacity Amount but will not purchase or pay for Inadvertent Energy

7.4 Payment Due Date – Energy payments to the Seller will be disbursed within 30 days of the date which Idaho Power receives and accepts the documentation of the monthly Net Energy and Inadvertent Energy actually produced by the Seller’s Facility and delivered to Idaho Power as specified in Appendix A.

7.5 Continuing Jurisdiction of the Commission – This Agreement is a special contract and, as such, the rates, terms and conditions contained in this Agreement will be construed in accordance with Idaho Power Company v. Idaho Public Utilities Commission and Afton Energy, Inc., 107 Idaho 781, 693 P.2d 427 (1984); Idaho Power Company v. Idaho Public Utilities Commission, 107 Idaho 1122, 695 P.2d 1 261 (1985); Afton Energy, Inc. v. Idaho Power Company, 111 Idaho 925, 729 P.2d 400 (1986); Section 210 of the Public Utilities Regulatory Policies Act of 1978 and 18 CFR §292.303-308.

ARTICLE VIII: ENVIRONMENTAL ATTRIBUTES

8.1 Idaho Power waives any claim to ownership of Environmental Attributes. Environmental Attributes include, but are not limited to, Green Tags, Green Certificates, Renewable Energy Credits (RECs) and Tradable Renewable Certificates (TRCs) directly associated with the production of energy from the Seller’s Facility.

ARTICLE IX: FACILITY AND INTERCONNECTION

9.1 Design of Facility - Seller will design, construct, install, own, operate and maintain the Facility and any Seller-owned Interconnection Facilities so as to allow safe and reliable generation and delivery of Net Energy and Inadvertent Energy to the Idaho Power Point of Delivery for the full term of the Agreement.

9.2 Interconnection Facilities - Except as specifically provided for in this Agreement, the required

Interconnection Facilities will be in accordance with Schedule 72, the Generation Interconnection Process and Appendix B. The Seller is responsible for all costs associated with this equipment as specified in Schedule 72 and the Generation Interconnection Process, including but not limited to initial costs incurred by Idaho Power for equipment costs, installation costs and ongoing monthly Idaho Power operations and maintenance expenses.

ARTICLE X: DISCONNECTION EQUIPMENT

- 10.1 Except as specifically provided for in this Agreement, the required Disconnection Equipment will be in accordance with Schedule 72, the Generation Interconnection Process and Appendix B. The Seller is responsible for all costs associated with this equipment as specified in Schedule 72 and the Generation Interconnection Process, including but not limited to initial costs incurred by Idaho Power for equipment costs, installation costs and Idaho Power ongoing monthly operations and monthly maintenance expenses.

ARTICLE XI: METERING AND TELEMETRY

- 11.1 Metering and Telemetry - Idaho Power shall, for the account of Seller, provide, install, and maintain Metering Equipment to be located at a mutually agreed upon location to record and measure power flows to Idaho Power in accordance with Schedule 72, Generation Interconnection Process and Appendix B of this Agreement. The Metering Equipment will be at the location and the type required to measure, record and report the Facility's Net Energy, Station Use, Inadvertent Energy and maximum energy deliveries (kW) in a manner to provide Idaho Power adequate energy measurement data to administer this Agreement and to integrate this Facility's energy production into the Idaho Power electrical system. All Metering Equipment and installation costs shall be borne by Seller, including costs incurred by Idaho Power for inspecting and testing such equipment at reasonable intervals at Idaho Power's actual cost of providing this Metering Equipment and services. The Metering Equipment shall be at the location described in Appendix B of this Agreement. All meters used to determine the billing hereunder shall be

sealed and the seals shall be broken only by Idaho Power when the meters are to be inspected, tested or adjusted.

- 11.2 Meter Inspection - Idaho Power shall inspect installations annually and test meters on the applicable periodic test schedule relevant to the equipment installed as specified in Appendix B of this Agreement. If requested by Seller, Idaho Power shall make a special inspection or test of a meter and Seller shall pay the reasonable costs of such special inspection. Both Parties shall be notified of the time when any inspection or test shall take place, and each Party may have representatives present at the test or inspection. If a meter is found to be inaccurate or defective, it shall be adjusted, repaired or replaced, at Idaho Power's expense in order to provide accurate metering. If a meter fails to register, or if the measurement made by a meter during a test varies by more than two percent (2 %) from the measurement made by the standard meter used in the test, adjustment (either upward or downward) to the payments Seller has received shall be made to correct those payments affected by the inaccurate meter for the actual period during which inaccurate measurements were made. If the actual period cannot be determined, corrections to the payments will be based on the shorter of (1) a period equal to one-half the time from the date of the last previous test of the meter to the date of the test which established the inaccuracy of the meter; or (2) six (6) months.
- 11.3 Telemetry – Idaho Power will install, operate and maintain at Seller's expense metering, communications and telemetry equipment which will be capable of providing Idaho Power with continuous instantaneous telemetry of Seller's Net Energy and Inadvertent Energy produced and delivered to the Idaho Power Point of Delivery to Idaho Power's Designated Dispatch Facility.

ARTICLE XII - RECORDS

- 12.1 Maintenance of Records - Seller shall maintain at the Facility or such other location mutually acceptable to the Parties adequate total generation, Net Energy, Station Use, Inadvertent Energy and maximum generation (kW) records in a form and content recommended by Idaho Power.
- 12.2 Inspection - Either Party, after reasonable notice to the other Party, shall have the right, during

normal business hours, to inspect and audit any or all generation, Net Energy, Station Use, Inadvertent Energy and maximum generation (kW) records pertaining to the Seller's Facility.

ARTICLE XIII - PROTECTION

- 13.1 Seller shall construct, operate and maintain the Facility and Seller-furnished Interconnection Facilities in accordance with Schedule 72, the Generation Interconnection Process, Appendix B of this Agreement, Prudent Electrical Practices, the National Electrical Code, the National Electrical Safety Code and any other applicable local, state and federal codes. Seller acknowledges receipt of the Generation Interconnection Process. If, in the reasonable opinion of Idaho Power, Seller's operation of the Facility or Interconnection Facilities is unsafe or may otherwise adversely affect Idaho Power's equipment, personnel or service to its customers, Idaho Power may physically interrupt the flow of energy from the Facility as specified within Schedule 72, the Generation Interconnection Process or take such other reasonable steps as Idaho Power deems appropriate. Except in the case of an emergency, Idaho Power will attempt to notify Seller of such interruption prior to its occurrence as provided in paragraph 14.9. Seller shall provide and maintain adequate protective equipment sufficient to prevent damage to the Facility and Seller-furnished Interconnection Facilities. In some cases, some of Seller's protective relays will provide back-up protection for Idaho Power's facilities. In that event, Idaho Power will test such relays annually and Seller will pay the actual cost of such annual testing.

ARTICLE XIV: OPERATIONS

- 14.1 Communications - Idaho Power and the Seller shall maintain appropriate operating communications through Idaho Power's Designated Dispatch Facility in accordance with Appendix A of this Agreement.

- 14.2 Energy Acceptance -

14.2.1 Idaho Power shall be excused from accepting and paying for Net Energy or accepting

Inadvertent Energy produced by the Facility and delivered by the Seller to the Point of Delivery, if it is prevented from doing so by an event of Force Majeure, or if Idaho Power determines that curtailment, interruption or reduction of Net Energy or Inadvertent Energy deliveries is necessary because of line construction or maintenance requirements, emergencies, electrical system operating conditions on its system or as otherwise required by Prudent Electrical Practices. If, for reasons other than an event of Force Majeure, Idaho Power requires such a curtailment, interruption or reduction of Net Energy deliveries for a period that exceeds twenty (20) days, beginning with the twenty-first day of such interruption, curtailment or reduction, Seller will be deemed to be delivering Net Energy at a rate equivalent to the pro rata daily average of the amounts specified for the applicable month in paragraph 6.2. Idaho Power will notify Seller when the interruption, curtailment or reduction is terminated.

14.2.2 If, in the reasonable opinion of Idaho Power, Seller's operation of the Facility or Interconnection Facilities is unsafe or may otherwise adversely affect Idaho Power's equipment, personnel or service to its customers, Idaho Power may physically interrupt the flow of energy from the Facility as specified within Schedule 72 or take such other reasonable steps as Idaho Power deems appropriate.

14.2.3 Under no circumstances will the Seller deliver Net Energy and/or Inadvertent Energy from the Facility to the Point of Delivery in an amount that exceeds the Maximum Capacity Amount. Seller's failure to limit deliveries to the Maximum Capacity Amount will be a Material Breach of this Agreement.

14.3 Seller Declared Suspension of Energy Deliveries

14.3.1 If the Seller's Facility experiences a forced outage due to equipment failure which is not caused by an event of Force Majeure or by neglect, disrepair or lack of adequate preventative maintenance of the Seller's Facility, Seller may, after giving notice as provided in paragraph 14.3.2 below, temporarily suspend all deliveries of Net Energy to Idaho Power from the Facility or from individual generation unit(s) within the Facility

impacted by the forced outage for a period of not less than 48 hours to correct the forced outage condition ("Declared Suspension of Energy Deliveries"). The Seller's Declared Suspension of Energy Deliveries will begin at the start of the next full hour following the Seller's telephone notification as specified in paragraph 14.3.2 and will continue for the time as specified (not less than 48 hours) in the written notification provided by the Seller. In the month(s) in which the Declared Suspension of Energy occurred, the Net Energy Amount will be adjusted as specified in paragraph 6.2.4.

14.3.2 If the Seller desires to initiate a Declared Suspension of Energy Deliveries as provided in paragraph 14.3.1, the Seller will notify the Designated Dispatch Facility by telephone. The beginning hour of the Declared Suspension of Energy Deliveries will be at the earliest the next full hour after making telephone contact with Idaho Power. The Seller will, within 24 hours after the telephone contact, provide Idaho Power a written notice in accordance with Article XXVIII that will contain the beginning hour and duration of the Declared Suspension of Energy Deliveries and a description of the conditions that caused the Seller to initiate a Declared Suspension of Energy Deliveries. Idaho Power will review the documentation provided by the Seller to determine Idaho Power's acceptance of the described forced outage as qualifying for a Declared Suspension of Energy Deliveries as specified in paragraph 14.3.1. Idaho Power's acceptance of the Seller's forced outage as an acceptable forced outage will be based upon the clear documentation provided by the Seller that the forced outage is not due to an event of Force Majeure or by neglect, disrepair or lack of adequate preventative maintenance of the Seller's Facility.

14.5 Voltage Levels - Seller, in accordance with Prudent Electrical Practices shall minimize voltage fluctuations and maintain voltage levels acceptable to Idaho Power. Idaho Power may, in accordance with Prudent Electrical Practices, upon one hundred eighty (180) days' notice to the Seller, change its nominal operating voltage level by more than ten percent (10%) at the Point of Delivery, in which case Seller shall modify, at Idaho Power's expense, Seller's equipment as necessary to accommodate the modified nominal operating voltage level.

- 14.6 Generator Ramping - Idaho Power, in accordance with Prudent Electrical Practices, shall have the right to limit the rate that generation is changed at startup, during normal operation or following reconnection to Idaho Power's electrical system. Generation ramping may be required to permit Idaho Power's voltage regulation equipment time to respond to changes in power flow.
- 14.7 Scheduled Maintenance - On or before January 31 of each calendar year, Seller shall submit a written proposed maintenance schedule of significant Facility maintenance for that calendar year and Idaho Power and Seller shall mutually agree as to the acceptability of the proposed schedule. The Parties determination as to the acceptability of the Seller's timetable for scheduled maintenance will take into consideration Prudent Electrical Practices, Idaho Power system requirements and the Seller's preferred schedule. Neither Party shall unreasonably withhold acceptance of the proposed maintenance schedule.
- 14.8 Maintenance Coordination - The Seller and Idaho Power shall, to the extent practical, coordinate their respective line and Facility maintenance schedules such that they occur simultaneously.
- 14.9 Contact Prior to Curtailment - Idaho Power will make a reasonable attempt to contact the Seller prior to exercising its rights to curtail, interrupt or reduce deliveries from the Seller's Facility. Seller understands that in the case of emergency circumstances, real time operations of the electrical system, and/or unplanned events Idaho Power may not be able to provide notice to the Seller prior to interruption, curtailment, or reduction of electrical energy deliveries to Idaho Power.

ARTICLE XV: INDEMNIFICATION AND INSURANCE

- 15.1 Indemnification - Each Party shall agree to hold harmless and to indemnify the other Party, its officers, agents, affiliates, subsidiaries, parent company and employees against all loss, damage, expense and liability to third persons for injury to or death of person or injury to property, proximately caused by the indemnifying Party's construction, ownership, operation or maintenance of, or by failure of, any of such Party's works or facilities used in connection with this Agreement. The indemnifying Party shall, on the other Party's request, defend any suit

asserting a claim covered by this indemnity. The indemnifying Party shall pay all costs, including reasonable attorney fees that may be incurred by the other Party in enforcing this indemnity.

15.2 Insurance - During the term of this Agreement, Seller shall secure and continuously carry the following insurance coverage:

15.2.1 Comprehensive General Liability Insurance for both bodily injury and property damage with limits equal to \$1,000,000, each occurrence, combined single limit. The deductible for such insurance shall be consistent with current Insurance Industry Utility practices for similar property.

15.2.2 The above insurance coverage shall be placed with an insurance company with an A.M. Best Company rating of A- or better and shall include:

- (a) An endorsement naming Idaho Power as an additional insured and loss payee as applicable; and
- (b) A provision stating that such policy shall not be canceled or the limits of liability reduced without sixty (60) days' prior written notice to Idaho Power.

15.3 Seller to Provide Certificate of Insurance - As required in paragraph 4.1.5 herein and annually thereafter, Seller shall furnish Idaho Power a certificate of insurance, together with the endorsements required therein, evidencing the coverage as set forth above.

15.4 Seller to Notify Idaho Power of Loss of Coverage - If the insurance coverage required by paragraph 15.2 shall lapse for any reason, Seller will immediately notify Idaho Power in writing. The notice will advise Idaho Power of the specific reason for the lapse and the steps Seller is taking to reinstate the coverage. Failure to provide this notice and to expeditiously reinstate or replace the coverage will constitute a Material Breach of this Agreement.

ARTICLE XVI: FORCE MAJEURE

16.1 As used in this Agreement, "Force Majeure" or "an event of Force Majeure" means any cause beyond the control of the Seller or of Idaho Power which, despite the exercise of due diligence, such Party is unable to prevent or overcome. Force Majeure includes, but is not limited to, acts of

God, fire, flood, storms, wars, hostilities, civil strife, strikes and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, or changes in law or regulation occurring after the Operation Date, which, by the exercise of reasonable foresight such party could not reasonably have been expected to avoid and by the exercise of due diligence, it shall be unable to overcome. If either Party is rendered wholly or in part unable to perform its obligations under this Agreement because of an event of Force Majeure, both Parties shall be excused from whatever performance is affected by the event of Force Majeure, provided that:

- (1) The non-performing Party shall, as soon as is reasonably possible after the occurrence of the Force Majeure, give the other Party written notice describing the particulars of the occurrence.
- (2) The suspension of performance shall be of no greater scope and of no longer duration than is required by the event of Force Majeure.
- (3) No obligations of either Party which arose before the occurrence causing the suspension of performance and which could and should have been fully performed before such occurrence shall be excused as a result of such occurrence.

ARTICLE XVII: LAND RIGHTS

17.1 Seller to Provide Access - Seller hereby grants to Idaho Power for the term of this Agreement all necessary rights-of-way and easements to install, operate, maintain, replace, and remove Idaho Power's Metering Equipment, Interconnection Equipment, Disconnection Equipment, Protection Equipment and other Special Facilities necessary or useful to this Agreement, including adequate and continuing access rights on property of Seller. Seller warrants that it has procured sufficient easements and rights-of-way from third parties so as to provide Idaho Power with the access described above. All documents granting such easements or rights-of-way shall be subject to Idaho Power's approval and in recordable form.

17.2 Use of Public Rights-of-Way - The Parties agree that it is necessary to avoid the adverse

environmental and operating impacts that would occur as a result of duplicate electric lines being constructed in close proximity. Therefore, subject to Idaho Power's compliance with paragraph 17.4, Seller agrees that should Seller seek and receive from any local, state or federal governmental body the right to erect, construct and maintain Seller-furnished Interconnection Facilities upon, along and over any and all public roads, streets and highways, then the use by Seller of such public right-of-way shall be subordinate to any future use by Idaho Power of such public right-of-way for construction and/or maintenance of electric distribution and transmission facilities and Idaho Power may claim use of such public right-of-way for such purposes at any time. Except as required by paragraph 17.4, Idaho Power shall not be required to compensate Seller for exercising its rights under this paragraph 17.2.

17.3 Joint Use of Facilities - Subject to Idaho Power's compliance with paragraph 17.4, Idaho Power may use and attach its distribution and/or transmission facilities to Seller's Interconnection Facilities, may reconstruct Seller's Interconnection Facilities to accommodate Idaho Power's usage or Idaho Power may construct its own distribution or transmission facilities along, over and above any public right-of-way acquired from Seller pursuant to paragraph 17.2, attaching Seller's Interconnection Facilities to such newly constructed facilities. Except as required by paragraph 17.4, Idaho Power shall not be required to compensate Seller for exercising its rights under this paragraph 17.3.

17.4 Conditions of Use - It is the intention of the Parties that the Seller be left in substantially the same condition, both financially and electrically, as Seller existed prior to Idaho Power's exercising its rights under this Article XVII. Therefore, the Parties agree that the exercise by Idaho Power of any of the rights enumerated in paragraphs 17.2 and 17.3 shall: (1) comply with all applicable laws, codes and Prudent Electrical Practices, (2) equitably share the costs of installing, owning and operating jointly used facilities and rights-of-way. If the Parties are unable to agree on the method of apportioning these costs, the dispute will be submitted to the Commission for resolution and the decision of the Commission will be binding on the Parties, and (3) shall provide Seller with an interconnection to Idaho Power's system of equal capacity and durability

as existed prior to Idaho Power exercising its rights under this Article XVII.

ARTICLE XVIII: LIABILITY; DEDICATION

18.1 Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public or affect the status of Idaho Power as an independent public utility corporation or Seller as an independent individual or entity.

ARTICLE XIX: SEVERAL OBLIGATIONS

19.1 Except where specifically stated in this Agreement to be otherwise, the duties, obligations and liabilities of the Parties are intended to be several and not joint or collective. Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or impose a trust or partnership duty, obligation or liability on or with regard to either Party. Each Party shall be individually and severally liable for its own obligations under this Agreement.

ARTICLE XX: WAIVER

20.1 Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or other matter.

ARTICLE XXI: CHOICE OF LAWS AND VENUE

21.1 This Agreement shall be construed and interpreted in accordance with the laws of the State of Idaho without reference to its choice of law provisions.

21.2 Venue for any litigation arising out of or related to this Agreement will lie in the District Court of the Fourth Judicial District of Idaho in and for the County of Ada.

ARTICLE XXII: DISPUTES AND DEFAULT

22.1 Disputes - All disputes related to or arising under this Agreement, including, but not limited to, the interpretation of the terms and conditions of this Agreement, will be submitted to the Commission for resolution.

22.2 Notice of Default -

22.2.1 Defaults. If either Party fails to perform any of the terms or conditions of this Agreement (an “event of default”), the nondefaulting Party shall cause notice in writing to be given to the defaulting Party, specifying the manner in which such default occurred. If the defaulting Party shall fail to cure such default within the sixty (60) days after service of such notice, or if the defaulting Party reasonably demonstrates to the other Party that the default can be cured within a commercially reasonable time but not within such sixty (60) day period and then fails to diligently pursue such cure, then, the nondefaulting Party may, at its option, terminate this Agreement and/or pursue its legal or equitable remedies.

22.2.2 Material Breaches – The notice and cure provisions in paragraph 22.2.1 do not apply to defaults identified in this Agreement as Material Breaches. Material Breaches must be cured as expeditiously as possible following occurrence of the breach.

22.3 Security for Performance - Prior to the Operation Date and thereafter for the full term of this Agreement, Seller will provide Idaho Power with the following:

22.3.1 Insurance - Evidence of compliance with the provisions of paragraph 15.2. If Seller fails to comply, such failure will be a Material Breach and may only be cured by Seller supplying evidence that the required insurance coverage has been replaced or reinstated;

22.3.2 Engineer’s Certifications - Every three (3) years after the Operation Date, Seller will supply Idaho Power with a Certification of Ongoing Operations and Maintenance (O & M) from a Registered Professional Engineer licensed in the State of Idaho, which Certification of Ongoing O & M shall be in the form specified in Appendix C. Seller’s

failure to supply the required certificate will be an event of default. Such a default may only be cured by Seller providing the required certificate; and

- 22.3.3 Licenses and Permits - During the full term of this Agreement, Seller shall maintain compliance with all permits and licenses described in paragraph 4.1.1 of this Agreement. In addition, Seller will supply Idaho Power with copies of any new or additional permits or licenses. At least every fifth Contract Year, Seller will update the documentation described in Paragraph 4.1.1. If at any time Seller fails to maintain compliance with the permits and licenses described in paragraph 4.1.1 or to provide the documentation required by this paragraph, such failure will be an event of default and may only be cured by Seller submitting to Idaho Power evidence of compliance from the permitting agency.

ARTICLE XXIII: GOVERNMENTAL AUTHORIZATION

- 23.1 This Agreement is subject to the jurisdiction of those governmental agencies having control over either Party of this Agreement.

ARTICLE XXIV: COMMISSION ORDER

- 24.1 This Agreement shall become finally effective upon the Commission's approval of all terms and provisions hereof without change or condition and declaration that all payments to be made to Seller hereunder shall be allowed as prudently incurred expenses for ratemaking purposes.

ARTICLE XXV: SUCCESSORS AND ASSIGNS

- 25.1 This Agreement and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties hereto, except that no assignment hereof by either Party shall become effective without the written consent of both Parties being first obtained. Such consent shall not be unreasonably withheld. Notwithstanding the foregoing, any party which Idaho Power may consolidate, or into which it may merge, or to which it may

convey or transfer substantially all of its electric utility assets, shall automatically, without further act, and without need of consent or approval by the Seller, succeed to all of Idaho Power's rights, obligations and interests under this Agreement. This article shall not prevent a financing entity with recorded or secured rights from exercising all rights and remedies available to it under law or contract. Idaho Power shall have the right to be notified by the financing entity that it is exercising such rights or remedies.

ARTICLE XXVI: MODIFICATION

- 26.1 No modification to this Agreement shall be valid unless it is in writing and signed by both Parties and subsequently approved by the Commission.

ARTICLE XXVII: TAXES

- 27.1 Each Party shall pay before delinquency all taxes and other governmental charges which, if failed to be paid when due, could result in a lien upon the Facility or the Interconnection Facilities.

ARTICLE XXVIII: NOTICES

- 28.1 All written notices under this agreement shall be directed as follows and shall be considered delivered when deposited in the U. S. Mail, first-class postage prepaid, as follows:

To Seller:

Original document to:

Cassia Gulch wind park LLC
Attn: Jared Grover
4200 North Cloverdale Rd
Boise, Idaho 83713

Copy of document to:

John Deere Wind Energy
c/o John Deere Credit
6400 NW 86th Street
Johnston, IA 50131
Attn: Assistant Chief Counsel – Wind Energy

To Idaho Power:

Original document to:

Vice President, Power Supply
Idaho Power Company
P O Box 70
Boise, Idaho 83707

Copy of document to:

Cogeneration and Small Power Production
Idaho Power Company
P O Box 70
Boise, Idaho 83707

ARTICLE XXIX: ADDITIONAL TERMS AND CONDITIONS

29.1 This Agreement includes the following appendices, which are attached hereto and included by reference:

Appendix A	-	Generation Scheduling and Reporting
Appendix B	-	Facility and Point of Delivery
Appendix C	-	Engineer's Certifications

ARTICLE XXX: SEVERABILITY

30.1 The invalidity or unenforceability of any term or provision of this Agreement shall not affect the validity or enforceability of any other terms or provisions and this Agreement shall be construed in all other respects as if the invalid or unenforceable term or provision were omitted.

ARTICLE XXXI: COUNTERPARTS

31.1 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

ARTICLE XXXII: ENTIRE AGREEMENT

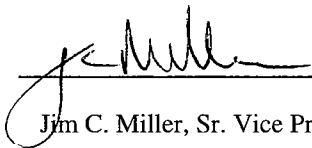
32.1 This Agreement constitutes the entire Agreement of the Parties concerning the subject matter hereof and supersedes all prior or contemporaneous oral or written agreements between the Parties concerning the subject matter hereof.

IN WITNESS WHEREOF, The Parties hereto have caused this Agreement to be executed in their respective names on the dates set forth below:

Idaho Power Company

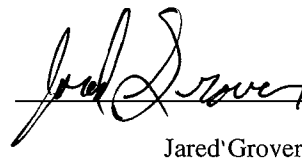
Cassia Gulch wind park L.L.C.

By



Jim C. Miller, Sr. Vice President, Power Supply

By



Jared Grover, Manager

Dated

APRIL 7, 2006

"Idaho Power"

Dated

April 7 2006

"Seller"

APPENDIX A

A -1 MONTHLY POWER PRODUCTION AND SWITCHING REPORT

At the end of each month the following required documentation will be submitted to:

Idaho Power Company
Attn: Cogeneration and Small Power Production
P O Box 70
Boise, Idaho 83707

The Meter readings required on this report will be the reading on the Idaho Power Meter Equipment measuring the Facility's total energy production, Station Usage, Inadvertent Energy delivered to Idaho Power and the maximum generated energy (kW) as recorded on the Meter Equipment and/or any other required energy measurements to adequately administer this Agreement.

Idaho Power Company

Cogeneration and Small Power Production

MONTHLY POWER PRODUCTION AND SWITCHING REPORT

Month _____ Year _____

Project Name _____ Project Number: _____
 Address _____ Phone Number: _____
 City _____ State _____ Zip _____

	<u>Facility Output</u>	<u>Station Usage</u>	<u>Station Usage</u>	<u>Metered Maximum Generation</u>
Meter Number:	_____	_____	_____	kW
End of Month kWh Meter Reading:	_____	_____	_____	
Beginning of Month kWh Meter:	_____	_____	_____	
Difference:	_____	_____	_____	<u>Net Generation</u>
Times Meter Constant:	_____	_____	_____	
kWh for the Month:	-	-	=	
Metered Demand:	_____	_____	_____	

Breaker Opening Record

<u>Date</u>	<u>Time</u>	<u>Meter</u>

* <u>Reason</u>

Breaker Closing Record

<u>Date</u>	<u>Time</u>	<u>Meter</u>

- * **Breaker Opening Reason Codes**
- 1 Lack of Adequate Prime Mover
 - 2 Forced Outage of Facility
 - 3 Disturbance of IPCo System
 - 4 Scheduled Maintenance
 - 5 Testing of Protection Systems
 - 6 Cause Unknown
 - 7 Other (Explain)

I hereby certify that the above meter readings are true and correct as of Midnight on the last day of the above month and that the switching record is accurate and complete as required by the Firm Energy Sales Agreement to which I am a Party.

Signature Date

A-2 ROUTINE REPORTING

Idaho Power Contact Information

Daily Energy Production Reporting

Call daily by 10 a.m., 1-800-356-4328 or 1-800-635-1093 and leave the following information:

- Project Identification - Project Name and Project Number
- Current Meter Reading
- Estimated Generation for the current day
- Estimated Generation for the next day

Planned and Unplanned Project outages

Call 1-800-345-1319 and leave the following information:

- Project Identification - Project Name and Project Number
- Approximate time outage occurred
- Estimated day and time of project coming back online

Seller's Contact Information

24-Hour Project Operational Contact

Name: Karl-Heinz Mertins
Telephone Number: 515-267-4250
Cell Phone: 612-309-8800

Project On-site Contact information

Name: Jared Grover
Telephone Number: 208-323-6155
Cell Phone: 208-371-4066

APPENDIX B

FACILITY AND POINT OF DELIVERY

PROJECT NO. 31318200

CASSIA GULCH WIND PARK

B-1 DESCRIPTION OF FACILITY

The Facility will consist of 9 Suzlon, model S88 Wind turbines with individual generator ratings of 2.1 MW for each unit, for a total Facility generator rating of 18.9 MW.

B-2 LOCATION OF FACILITY

Near: Hagerman, Idaho – the area known as Bell Rapids

Sections: 22 and 27 Township: 6 South Range: 12 East County: Twin Falls Idaho.

B-3 SCHEDULED FIRST ENERGY AND OPERATION DATE

Seller has selected August 31, 2006 as the estimated Scheduled First Energy Date.

Seller has selected December 31, 2006 as the estimated Scheduled Operation Date.

In making these selections, Seller recognizes that adequate testing of the Facility and completion of all requirements in paragraph 5.2 of this Agreement must be completed prior to the project being granted an Operation Date. Idaho Power, based on the information supplied by the Seller, will schedule its construction in accordance with Schedule 72 and the Generation Interconnection Process.

B-4 MAXIMUM CAPACITY AMOUNT: This value will be 18.9 MW which is consistent with the value provided by the Seller to Idaho Power in the Generation Interconnection process. This value is the maximum energy (MW) that potentially could be delivered by the Seller's Facility to the Idaho Power electrical system at any moment in time.

B-5 POINT OF DELIVERY

“Point of Delivery” means, unless otherwise agreed by both Parties, the point of where the Sellers Facility’s energy is delivered to the Idaho Power electrical system. The Idaho Power Generation Interconnection process will determine the specific Point of Delivery for this Facility. Upon completion of the Generation Interconnection process the Point of Delivery identified by this process will become an integral part of this Agreement.

B-6 LOSSES

If the Idaho Power Metering equipment is capable of measuring the exact energy deliveries by the Seller to the Idaho Power electrical system at the Point of Delivery, no Losses will be calculated for this Facility. If the Idaho Power Metering is unable to measure the exact energy deliveries by the Seller to the Idaho Power electrical system at the Point of Delivery, a Losses calculation will be established to measure the energy losses (kWh) between the Seller’s Facility and the Idaho Power Point of Delivery. This loss calculation will be initially set at 2% of the kWh energy production recorded on the Facility generation metering equipment. At such time as Seller provides Idaho Power with the electrical equipment specifications (transformer loss specifications, conductor sizes, etc) of all of the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power will configure a revised loss calculation formula to be agreed to by both parties and used to calculate the kWh Losses for the remaining term of the Agreement. If at anytime during the term of this Agreement, Idaho Power determines that the loss calculation does not correctly reflect the actual kWh losses attributed to the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power may adjust the calculation and retroactively adjust the previous months kWh loss calculations.

B-7 METERING AND TELEMETRY

The Idaho Power Generation Interconnection process will determine the specific metering and telemetry requirements for this Facility. At the minimum the Metering Equipment and Telemetry

equipment must be able to provide and record hourly energy deliveries to the Point of Delivery and any other energy measurements required to administer this Agreement. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Seller will arrange for and make available at Seller's cost communication circuit(s) compatible to Idaho Power's communications equipment and dedicated to Idaho Power's use terminating at the Idaho Power facilities capable of providing Idaho Power with continuous instantaneous information on the Facilities energy production. Idaho Power provided equipment will be owned and maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total metering cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

B-7 SPECIAL FACILITIES

The Idaho Power Generation Interconnection process will determine the Special Facility requirements for this Facility. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Idaho Power owned equipment will be maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total Special Facility cost will be included in the calculation of the Monthly Operation and

Maintenance Charges specified in Schedule 72.

B-8 REACTIVE POWER

The Idaho Power Generation Interconnection process will determine the reactive power required to be supplied by Idaho Power to the Seller, based upon information provided by the Seller. The Generation Interconnection process will specify the equipment required on the Idaho Power system to meet the Facility's reactive power requirements. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Idaho Power owned equipment will be maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total reactive power cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

B-9 DISCONNECTION EQUIPMENT

Disconnection Equipment is required to insure that the Seller's Facility will be disconnected from Idaho Power's system in the event of (1) the Seller's delivery of energy exceeds the Maximum Capacity Amount or (2) Idaho Power or the Seller require interruption or curtailment of energy deliveries to Idaho Power or (3) a disturbance on either Idaho Power's system or the Seller's Facility. The Idaho Power Generation Interconnection process will determine the Disconnection Equipment specifications and requirements for this Facility, this equipment is for protection of the Idaho Power system and equipment only. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller

provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. Seller will install all Seller provided equipment, control wire and conduit necessary for the operation of the Disconnection Equipment. Through the Generation Interconnection process, Idaho Power will supply details for the disconnection panel and will test the equipment prior to any operations of the Facility, Seller will provide drawings of their interconnection wiring for engineering approval prior to installation. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Idaho Power owned equipment will be maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total Disconnection Equipment cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

B-10 COSTS

The Idaho Power Generation Interconnection process and this Agreement will identify all cost for this Facility to interconnect to the Idaho Power system, including but not limited to the cost of Metering equipment, Telemetry equipment, Special Facilities, Reactive Power, Disconnection equipment, Protection equipment and Interconnection Equipment. As specified in the Generation Interconnection process and in accordance with Schedule 72 and this Agreement the Seller will reimburse Idaho Power for all costs associated with this equipment. In addition to the equipment, installation and construction charges as specified above, during the term of this Agreement, Seller will pay Idaho Power the monthly operation and maintenance charge specified in Schedule 72 or its successor schedules(s). The monthly operations and maintenance charge will begin on the first day of the month following the date which Idaho Power has completed installation of the Idaho Power provided equipment and the interconnection equipment is available for use by the Facility. The monthly operations and maintenance charge will be based upon the initial cost paid

by the Seller in accordance with Schedule 72. Upon reconciliation of the actual costs, in accordance with Schedule 72 the monthly operations and maintenance charge will be adjusted to reflect the actual cost incurred by Idaho Power and previously charged monthly operation and maintenance expense will be revised to reflect the actual cost incurred by Idaho Power. Idaho Power will refund or Seller will remit any underpayment of the adjusted monthly operations and maintenance charge within sixty (60) days of the determination of this amount.

B-11 SALVAGE

No later than sixty (60) days after the termination or expiration of this Agreement, Idaho Power will prepare and forward to Seller an estimate of the remaining value of those Idaho Power furnished Interconnection Facilities as required under Schedule 72, the Generation Interconnection Process and/or described in this Agreement, less the cost of removal and transfer to Idaho Power's nearest warehouse, if the Interconnection Facilities will be removed. If Seller elects not to obtain ownership of the Interconnection Facilities but instead wishes that Idaho Power reimburse the Seller for said Facilities the Seller may invoice Idaho Power for the net salvage value as estimated by Idaho Power and Idaho Power shall pay such amount to Seller within thirty (30) days after receipt of the invoice. Seller shall have the right to offset the invoice amount against any present or future payments due Idaho Power.

APPENDIX C
ENGINEER'S CERTIFICATION
OF
OPERATIONS & MAINTENANCE POLICY

The undersigned _____, on behalf of himself and _____, hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter "Agreement," between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as IPCo Facility No. _____ and is hereinafter referred to as the "Project."
4. That the Project, which is commonly known as the _____, is located in Section ____ Township _____, Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a twenty (20) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has reviewed and/or supervised the review of the Policy for Operation and Maintenance ("O&M") for this Project and it is his professional opinion that, provided said Project has been designed and built to appropriate standards, adherence to said O&M Policy will result in the

Project's producing at or near the design electrical output, efficiency and plant factor for a twenty (20) year period.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.

10. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____

(P.E. Stamp)

Date _____

APPENDIX C
ENGINEER'S CERTIFICATION
OF
ONGOING OPERATIONS AND MAINTENANCE

The undersigned _____, on behalf of himself and _____ hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter "Agreement," between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as IPCo Facility No. _____ and hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the _____ Project, is located at _____.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a twenty (20) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has made a physical inspection of said Project, its operations and maintenance records since the last previous certified inspection. It is Engineer's professional opinion, based on the Project's appearance, that its ongoing O&M has been substantially in accordance with said O&M Policy; that it is in reasonably good operating condition; and that if adherence to said O&M Policy continues, the Project will continue producing at or near its design electrical output, efficiency and plant factor for the remaining _____ years of the Agreement.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.

10. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____

(P.E. Stamp)

Date _____

APPENDIX C
ENGINEER'S CERTIFICATION
OF
DESIGN & CONSTRUCTION ADEQUACY

The undersigned _____, on behalf of himself and _____, hereinafter collectively referred to as "Engineer", hereby states and certifies to Idaho Power as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Firm Energy Sales Agreement, hereinafter "Agreement", between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project, which is the subject of the Agreement and this Statement, is identified as IPCo Facility No _____ and is hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the _____ Project, is located in Section _____, Township _____, Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a _____ (____) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project and has made the analysis of the plans and specifications independently.
8. That Engineer has reviewed the engineering design and construction of the Project, including the civil work, electrical work, generating equipment, prime mover conveyance system, Seller furnished Interconnection Facilities and other Project facilities and equipment.

9. That the Project has been constructed in accordance with said plans and specifications, all applicable codes and consistent with Prudent Electrical Practices as that term is described in the Agreement.

10. That the design and construction of the Project is such that with reasonable and prudent operation and maintenance practices by Seller, the Project is capable of performing in accordance with the terms of the Agreement and with Prudent Electrical Practices for a _____ (_____) year period.

11. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, in interconnecting the Project with its system, is relying on Engineer's representations and opinions contained in this Statement.

12. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____
(P.E. Stamp)

Date _____

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR) CASE NO. IPC-E-06-11
APPROVAL OF A FIRM ENERGY SALES)
AGREEMENT FOR THE SALE AND)
PURCHASE OF ELECTRIC ENERGY) ORDER NO. 30087
BETWEEN IDAHO POWER COMPANY)
AND CASSIA GULCH WIND PARK, LLC)**

On April 20, 2006, Idaho Power Company (“Idaho Power” or “Company”) filed an Application with the Idaho Public Utilities Commission (“Commission”) requesting approval of a Firm Energy Sales Agreement (the “Agreement”) between Idaho Power and Cassia Gulch Wind Park, LLC (“Cassia Gulch”) dated April 7, 2006. Cassia Gulch proposes to design, construct, install, own, operate and maintain an 18.9 MW wind generating facility. Under the Agreement, Cassia Gulch would sell and Idaho Power would purchase electric energy generated by Cassia Gulch’s wind turbines located near Hagerman, Idaho. Under normal and/or average conditions, the project will not exceed 10 aMW on a monthly basis.

As represented, the Cassia Gulch facility will be a qualified small power production facility (“QF”) under the applicable provisions of the Public Utility Regulatory Policies Act of 1978 (“PURPA”). Idaho Power contends that the Agreement comports with the terms and conditions of Commission Order No. 29632 (*U.S. Geothermal, et al. v. Idaho Power*) and avoided cost Order No. 29646. The Agreement is for a 20-year term and contains the published non-levelized avoided cost rates set forth in Order No. 29646. Cassia Gulch has selected December 31, 2006 as the scheduled operation date for this facility. Section 24 of the Agreement provides that the Agreement will not become effective until the Commission has approved all the Agreement’s terms and conditions and declared that all payments that Idaho Power makes to Cassia Gulch for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.

On June 2, 2006, the Commission issued Notices of Application and Modified Procedure in this matter. *See* Order No. 30061. The deadline for filing written comments was June 16, 2006. The only comments received were filed by Commission Staff.

STAFF COMMENTS

Staff reviewed the Agreement and believes that it comports with the rates, terms and conditions of Commission Order No. 29632 (*U.S. Geothermal, et al. v. Idaho Power*) and avoided cost Order No. 29646. Staff recommended that the Agreement be approved.

COMMISSION FINDINGS

The Commission has reviewed the filings of record in Case No. IPC-E-06-11, including the underlying Agreement and filed comments. Idaho Power has presented a Firm Energy Sales Agreement with Cassia Gulch for Commission consideration and approval. The Agreement is for an 18.9 MW wind generating facility located near Hagerman, Idaho. As represented and pursuant to contract, under normal and/or average conditions the project will not exceed 10 aMW on a monthly basis. We thus find that the project is qualified to receive the published avoided cost rates approved by the Commission.

The Commission finds that the Agreement submitted in this case contains acceptable contract provisions and includes the non-levelized published rates approved by the Commission in Order No. 29646. We find it reasonable that the submitted Agreement be approved without further notice or procedure. IDAPA 31.01.01.204. We further find it reasonable to allow payments made under the Agreement as prudently incurred expenses for ratemaking purposes.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over Idaho Power Company, an electric utility, pursuant to the authority and power granted it under Title 61 of the Idaho Code and the Public Utility Regulatory Policies Act of 1978 (PURPA). The Commission has authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed term obligations for the purchase of energy from qualified facilities and to implement FERC rules.

ORDER

IT IS HEREBY ORDERED that the Commission approves the April 7, 2006 Firm Energy Sales Agreement between Idaho Power Company and Cassia Gulch Wind Park, LLC.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code* § 61-626.

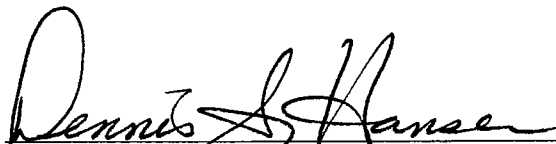
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 30th
day of June 2006.



PAUL KJELLANDER, PRESIDENT

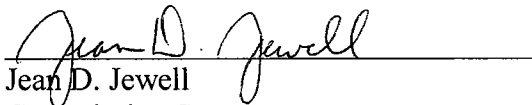


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

O:IPC-E-06-11_cg2

Exhibit 7



RECEIVED

2006 OCT 27 AM 11:02

IDAHO PUBLIC
UTILITIES COMMISSION
October 27, 2006

Barton L. Kline
Attorney

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington Street
P. O. Box 83720
Boise, Idaho 83720-0074

Re: Case No. IPC-E-06-26
Application in the Matter of Idaho Power Company for Approval of a Firm
Energy Sales Agreement for the Sale and Purchase of Electric Energy
Between Idaho Power Company and Magic Wind Park LLC.

Dear Ms. Jewell:

Please find enclosed for filing an original and seven (7) copies of Idaho Power
Company's Application for the above-referenced matter.

I would appreciate it if you would return a stamped copy of this transmittal letter in
the enclosed self-addressed, stamped envelope.

Very truly yours,

Barton L. Kline

BLK:sh
Enclosures

BARTON L. KLINE, ISB # 1526
MONICA B. MOEN, ISB # 5734
Idaho Power Company
1221 West Idaho Street
P. O. Box 70
Boise, Idaho 83707
Telephone: (208) 388-2682
FAX Telephone: (208) 388-6936

Attorneys for Idaho Power Company

RECEIVED
2006 OCT 27 AM 11:03
IDAHO PUBLIC
UTILITIES COMMISSION

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)
IDAHO POWER COMPANY FOR APPROVAL)
OF A FIRM ENERGY SALES AGREEMENT)
FOR THE SALE AND PURCHASE OF)
ELECTRIC ENERGY BETWEEN IDAHO)
POWER COMPANY AND MAGIC WIND)
PARK LLC)
_____)

CASE NO. IPC-E-06-26
APPLICATION

COMES NOW, Idaho Power Company ("Idaho Power" or "the Company") and, pursuant to RP 52, hereby requests that the Commission issue its Order approving a Firm Energy Sales Agreement (the "Agreement") between Idaho Power and Magic Wind Park LLC ("Magic Wind") under which Magic Wind would sell and Idaho Power would purchase electric energy generated by the Magic Wind Park Generating Facility located approximately 12 miles northwest of the town of Buhl, Twin Falls County, Idaho ("Facility"). A copy of the Agreement is attached hereto as Exhibit 1.

This Application is based on the following:

I.

On October 20, 2005, Magic Wind filed a Motion to Determine Exemption Status seeking a Commission determination that Magic Wind was exempt from the rate eligibility cap established in Commission Order No. 29839. On August 15, 2006, the Commission, in Order No. 30109, determined that Magic Wind was entitled to receive exemption from the published rate eligibility cap established in Order No. 29839.

II.

On October 11, 2006, Idaho Power and Magic Wind entered into a Firm Energy Sales Agreement ("Agreement") pursuant to the terms and conditions of Commission Order No. 29632 and Commission Order 30109. Under the terms of that Agreement, Magic Wind elected to contract with Idaho Power for a 20-year term. Magic Wind further elected to contract with the Company using the non-levelized published avoided cost rates as currently established by the Commission for projects that, under normal operating conditions, will not generate more than 10 aMW on a monthly basis.

III.

For the most part the Agreement contains terms and conditions identical to the terms and conditions previously approved by the Commission in other Firm Energy Sales Agreements between Idaho Power and various QFs. However, there are two provisions that the Commission should be aware of in its consideration of this Agreement.

1. Following the issuance of Order No. 30109, Magic Wind inquired as to whether it would be possible to utilize the methodology for computing shortfall energy payments the Commission approved in the Firm Energy Sales Agreement between

Idaho Power and Fossil Gulch Wind Park, LLC (Case No. IPC-E-04-19, Order No. 29630) rather than the methodology for determining shortfall energy payments established by Commission Order No. 29632 in Case No. IPC-E-04-8, the U.S. Geothermal case. The Commission may recall that prior to the U.S. Geothermal case, the Commission approved several Idaho Power contracts with QF developers, including Fossil Gulch, that contained a methodology for computing shortfall energy payments if generation from the project fell outside the 90%/110% performance band ("Fossil Gulch Methodology"). See Case Nos. IPC-E-03-1, IPC-E-04-1, IPC-E-04-16. In the U.S. Geothermal case the Commission expressed a concern that under certain conditions use of the Fossil Gulch Methodology could have adverse results for QF's and in the U.S. Geothermal Order, Order No. 29632, described a different method for determining shortfall energy payments ("U.S. Geothermal Method"). Magic Wind has voluntarily selected the Fossil Gulch Method. Use of the Fossil Gulch Methodology is a negotiated term of the Agreement and is mutually acceptable to Idaho Power and Magic Wind.

2. In paragraph B-3 in Appendix B to the Agreement the scheduled first energy and operation dates are specified by Magic Wind. Magic Wind is one of the generating resources that may be affected by the outcome of the Cassia Wind Complaint., Case No. IPC-E-06-21. As a result, Paragraph B-3 contains language providing for the possible revision of the first energy dates and scheduled operation dates depending on the time required to resolve the issues raised in the Cassia Wind Complaint.

IV.

Magic Wind proposes to design, construct, install, own, operate and maintain a 20 MW wind generating facility. The Facility will be a qualified small power production facility under the applicable provisions of the Public Utilities Regulatory Policy Act of 1978 ("PURPA"). The Facility will consist of eight (8) Clipper wind turbines with individual generator ratings of 2.5 MW for each unit for a total facility generator rating of 20 MW. As provided by the Agreement, Magic Wind will be required to provide data on the Facility that Idaho Power will use to confirm that, under normal and/or average conditions, generation from the Facility will not exceed 10 aMW on a monthly basis.

V.

Magic Wind has selected July 31, 2007 as the Scheduled First Energy Date and December 31, 2007 as the Scheduled Operation Date for the Facility. As previously noted, these dates are subject to revision. As the Agreement specifies, once a project requests and is assigned an Operation Date, various terms of the Agreement are activated, primarily the 90%/110% performance criteria. The Agreement requires that only the monthly variable non-firm price for energy be paid for any energy the Facility delivers to Idaho Power prior to the assignment of an Operation Date for this project.

VI.

Section 24 of the Agreement provides that the Agreement will not become effective until the Commission has approved all of the Agreement's terms and conditions and declared that all payments Idaho Power makes to Magic Wind for

purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.

VII.

Within this Agreement, various requirements have been placed upon Magic Wind in order for Idaho Power to accept energy deliveries from this project. Idaho Power will confirm that the initial requirements have been completed prior to accepting energy from this Facility. The Company will also monitor the ongoing requirements through the full term of this Agreement. Should the Commission approve this Agreement, Idaho Power intends to consider the Effective Date of the Agreement to be October 11, 2007.

VIII.

The Agreement, as signed and submitted by the Parties thereto, contains Non-Levelized Published Avoided Cost Rates in conformity with applicable IPUC Orders.

IX.

Service of pleadings, exhibits, orders and other documents relating to this proceeding should be served on the following:

Barton L. Kline, Senior Attorney
Monica B. Moen, Attorney II
Idaho Power Company
P.O. Box 70
Boise, Idaho 83707
bkline@idahopower.com
mmoen@idahopower.com


Randy C. Allphin
Contract Administrator
Idaho Power Company
P.O. Box 70
Boise, Idaho 83707
rallphin@idahopower.com

NOW, THEREFORE, based on the foregoing, Idaho Power Company hereby requests that the Commission issue its Order:

(1) Approving the Firm Energy Sales Agreement between Idaho Power Company and Magic Wind without change or condition; and

(2) Declaring that all payments for purchases of energy under the Firm Energy Sales Agreement between Idaho Power Company and Magic Wind be allowed as prudently incurred expenses for ratemaking purposes.

Respectfully submitted this 27th day of October 2006.



BARTON L. KLINE
Attorney for Idaho Power Company

IDAHO POWER COMPANY

CASE NO. IPC-E-06-26

APPLICATION

EXHIBIT 1

FIRM ENERGY SALES AGREEMENT
BETWEEN
IDAHO POWER COMPANY
AND
MAGIC WIND PARK LLC
TABLE OF CONTENTS

<u>Article</u>	<u>TITLE</u>
1	Definitions
2	No Reliance on Idaho Power
3	Warranties
4	Conditions to Acceptance of Energy
5	Term and Operation Date
6	Purchase and Sale of Net Energy
7	Purchase Price and Method of Payment
8	Environmental Attributes
9	Facility and Interconnection
10	Disconnection Equipment
11	Metering and Telemetry
12	Records
13	Protection
14	Operations
15	Indemnification and Insurance
16	Force Majeure
17	Land Rights
18	Liability; Dedication
19	Several Obligations
20	Waiver
21	Choice of Laws and Venue
22	Disputes and Default
23	Governmental Authorization
24	Commission Order
25	Successors and Assigns
26	Modification
27	Taxes
28	Notices
29	Additional Terms and Conditions
30	Severability
31	Counterparts
32	Entire Agreement Signatures
	Appendix A
	Appendix B
	Appendix C

FIRM ENERGY SALES AGREEMENT
(10 aMW or Less)

MAGIC WIND PARK LLC

Project Number: 31315500

THIS AGREEMENT, entered into on this 11th day of October 2006 between MAGIC WIND, LLC, an Idaho limited liability company (Seller), and IDAHO POWER COMPANY, an Idaho corporation (Idaho Power), hereinafter sometimes referred to collectively as "Parties" or individually as "Party."

WITNESSETH:

WHEREAS, Seller will design, construct, own, maintain and operate an electric generation facility; and

WHEREAS, Seller wishes to sell, and Idaho Power is willing to purchase, firm electric energy produced by the Seller's Facility.

THEREFORE, In consideration of the mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

ARTICLE I: DEFINITIONS

As used in this Agreement and the appendices attached hereto, the following terms shall have the following meanings:

- 1.1 "Base Energy" – Monthly Net Energy less than 110% of the monthly Net Energy Amount as specified in paragraph 6.2 of this Agreement.
- 1.2 "Commission" - The Idaho Public Utilities Commission.
- 1.3 "Contract Year" - The period commencing each calendar year on the same calendar date as the Operation Date and ending 364 days thereafter.
- 1.3 "Designated Dispatch Facility" - Idaho Power's Systems Operations Group, or any subsequent group designated by Idaho Power.
- 1.4 "Disconnection Equipment" - All equipment specified in Schedule 72 and the Generation Interconnection Process and any additional equipment specified in Appendix B.

- 1.5 “Facility” - That electric generation facility described in Appendix B of this Agreement.
- 1.6 “First Energy Date” - The day commencing at 0001 hours, Mountain Time, following the day that Seller has satisfied the requirements of Article IV and the Seller begins delivering energy to Idaho Power’s system at the Point of Delivery.
- 1.7 “Generation Interconnection Process” – Idaho Power’s generation interconnection application and engineering review process developed to ensure a safe and reliable generation interconnection in compliance with all applicable regulatory requirements, Prudent Electrical Practices and national safety standards.
- 1.8 “Inadvertent Energy” – Electric energy Seller does not intend to generate. Inadvertent energy is more particularly described in paragraph 7.6 of this Agreement.
- 1.9 “Interconnection Facilities” - All equipment specified in Schedule 72 and the Generation Interconnection Process and any additional equipment specified in Appendix B.
- 1.10 “Initial Capacity Determination” – The process by which Idaho Power confirms that under normal or average design conditions the Facility will generate at no more than 10 average MW per month and is therefore eligible to be paid the published rates in accordance with Commission Order No. 29632.
- 1.11 “Losses” – The loss of electrical energy expressed in kilowatt hours (kWh) occurring as a result of the transformation and transmission of energy between the point where the Facility’s energy is metered and the point the Facility’s energy is delivered to the Idaho Power electrical system. The loss calculation formula will be as specified in Appendix B of this Agreement.
- 1.12 “Market Energy Cost” – Eighty-five percent (85%) of the weighted average of the daily on-peak and off-peak Dow Jones Mid-Columbia Index (Dow Jones Mid-C Index) prices for non-firm energy. If the Dow Jones Mid-Columbia Index price is discontinued by the reporting agency, both Parties will mutually agree upon a replacement index, which is similar to the Dow Jones Mid-Columbia Index. The selected replacement index will be consistent with other similar agreements and a commonly used index by the electrical industry.
- 1.13 “Material Breach” – A Default (paragraph 22.2.1) subject to paragraph 22.2.2.

- 1.14 “Maximum Capacity Amount” – The maximum capacity (MW) of the Facility will be as specified in Appendix B of this Agreement.
- 1.15 “Metering Equipment” - All equipment specified in Schedule 72, the Generation Interconnection Process, this Agreement and any additional equipment specified in Appendix B required to measure, record and telemeter power flows between the Seller's electric generation plant and Idaho Power's system.
- 1.16 “Net Energy” – All of the electric energy produced by the Facility, less Station Use, less Losses, expressed in kilowatt hours (kWh). Seller commits to deliver all Net Energy to Idaho Power at the Point of Delivery for the full term of the Agreement. Net Energy does not include Inadvertent Energy.
- 1.17 “Operation Date” – The day commencing at 0001 hours, Mountain Time, following the day that all requirements of paragraph 5.2 have been completed.
- 1.18 “Point of Delivery” – The location specified in Appendix B, where Idaho Power’s and the Seller’s electrical facilities are interconnected.
- 1.19 “Prudent Electrical Practices” – Those practices, methods and equipment that are commonly and ordinarily used in electrical engineering and operations to operate electric equipment lawfully, safely, dependably, efficiently and economically.
- 1.20 “Scheduled Operation Date” – The date specified in Appendix B when Seller anticipates achieving the Operation Date.
- 1.21 “Schedule 72” – Idaho Power’s Tariff No 101, Schedule 72 or its successor schedules as approved by the Commission.
- 1.22 “Season” – The three periods identified in paragraph 6.2.1 of this Agreement.
- 1.23 “Shortfall Energy” – The method Idaho Power and the Seller have agreed to use to estimate and liquidate the damages Idaho Power will incur if the Seller fails to provide the monthly Net Energy Amounts specified in paragraph 6.2 of this Agreement. Computation of the Shortfall Energy is described in paragraph 7.3 of this Agreement.

- 1.24 "Special Facilities" - Additions or alterations of transmission and/or distribution lines and transformers as described in Appendix B, Schedule 72 or the Generation Interconnection Process required to safely interconnect the Seller's Facility to the Idaho Power system.
- 1.25 "Station Use" – Electric energy that is used to operate equipment that is auxiliary or otherwise related to the production of electricity by the Facility.
- 1.26 "Surplus Energy" – (1) Net Energy produced by the Seller's Facility and delivered to the Idaho Power electrical system during the month which exceeds 110% of the monthly Net Energy Amount for the corresponding month specified in paragraph 6.2. or (2) All Net Energy produced by the Seller's Facility and delivered by the Facility to the Idaho Power electrical system prior to the Operation Date.
- 1.27 "Total Cost of the Facility" - The total cost of structures, equipment and appurtenances.

ARTICLE II: NO RELIANCE ON IDAHO POWER

- 2.1 Seller Independent Investigation - Seller warrants and represents to Idaho Power that in entering into this Agreement and the undertaking by Seller of the obligations set forth herein, Seller has investigated and determined that it is capable of performing hereunder and has not relied upon the advice, experience or expertise of Idaho Power in connection with the transactions contemplated by this Agreement.
- 2.2 Seller Independent Experts - All professionals or experts including, but not limited to, engineers, attorneys or accountants, that Seller may have consulted or relied on in undertaking the transactions contemplated by this Agreement have been solely those of Seller.

ARTICLE III: WARRANTIES

- 3.1 No Warranty by Idaho Power - Any review, acceptance or failure to review Seller's design, specifications, equipment or facilities shall not be an endorsement or a confirmation by Idaho Power and Idaho Power makes no warranties, expressed or implied, regarding any aspect of Seller's design, specifications, equipment or facilities, including, but not limited to, safety,

durability, reliability, strength, capacity, adequacy or economic feasibility.

- 3.2 Qualifying Facility Status - Seller warrants that the Facility is a "Qualifying Facility," as that term is used and defined in 18 CFR 292.201 et seq. After initial qualification, Seller will take such steps as may be required to maintain the Facility's Qualifying Facility status during the term of this Agreement and Seller's failure to maintain Qualifying Facility status will be a Material Breach of this Agreement. Idaho Power reserves the right to review the Seller's Qualifying Facility status and associated support and compliance documents at anytime during the term of this Agreement.

ARTICLE IV: CONDITIONS TO ACCEPTANCE OF ENERGY

- 4.1 Prior to the First Energy Date and as a condition of Idaho Power's acceptance of deliveries of energy from the Seller, Seller shall:
- 4.1.1 Submit proof to Idaho Power that all licenses, permits or approvals necessary for Seller's operations have been obtained from applicable federal, state or local authorities, including, but not limited to, evidence of compliance with Subpart B, 18 CFR 292.201 et seq.
- 4.1.2 Opinion of Counsel - Submit to Idaho Power an Opinion Letter signed by an attorney admitted to practice and in good standing in the State of Idaho providing an opinion that Seller's licenses, permits and approvals as set forth in paragraph 4.1.1 above are legally and validly issued, are held in the name of the Seller and, based on a reasonable independent review, counsel is of the opinion that Seller is in substantial compliance with said permits as of the date of the Opinion Letter. The Opinion Letter will be in a form acceptable to Idaho Power and will acknowledge that the attorney rendering the opinion understands that Idaho Power is relying on said opinion. Idaho Power's acceptance of the form will not be unreasonably withheld. The Opinion Letter will be governed by and shall be interpreted in accordance with the legal opinion accord of the American Bar Association Section of Business Law (1991).

- 4.1.3 Initial Capacity Determination - Submit to Idaho Power such data as Idaho Power may reasonably require to perform the Initial Capacity Determination. Such data will include but not be limited to, equipment specifications, prime mover data, resource characteristics, normal and/or average operating design conditions and Station Use data. Upon receipt of this information, Idaho Power will review the provided data and if necessary, request additional data to complete the Initial Capacity Determination within a reasonable time.
- 4.1.4 Engineer's Certifications - Submit an executed Engineer's Certification of Design & Construction Adequacy and an Engineer's Certification of Operations and Maintenance (O&M) Policy as described in Commission Order No. 21690. These certificates will be in the form specified in Appendix C but may be modified to the extent necessary to recognize the different engineering disciplines providing the certificates.
- 4.1.5 Insurance - Submit written proof to Idaho Power of all insurance required in Article XV.
- 4.1.6 Interconnection - Provide written proof to Idaho Power that all Schedule 72 and Generation Interconnection Process requirements have been completed.
- 4.1.7 Written Acceptance - Request and obtain written confirmation from Idaho Power that all conditions to acceptance of energy have been fulfilled. Such written confirmation shall be provided within a commercially reasonable time following the Seller's request and will not be unreasonably withheld by Idaho Power.

ARTICLE V: TERM AND OPERATION DATE

- 5.1 Term - Subject to the provisions of paragraph 5.2 below, this Agreement shall become effective on the date first written and shall continue in full force and effect for a period of twenty (20) Contract Years from the Operation Date.
- 5.2 Operation Date - The Operation Date may occur only after the Facility has achieved all of the following:
- a) Achieved the First Energy Date.

- b) Commission approval of this Agreement in a form acceptable to Idaho Power has been received.
- c) Seller has demonstrated to Idaho Power's satisfaction that the Facility is complete and able to provide energy in a consistent, reliable and safe manner.
- d) Seller has requested an Operation Date from Idaho Power in a written format.
- e) Seller has received written confirmation from Idaho Power of the Operation Date.

This confirmation will not be unreasonably withheld by Idaho Power.

5.3 Seller's failure to achieve the Operation Date within ten (10) months of the Scheduled Operation Date will be an event of default.

ARTICLE VI: PURCHASE AND SALE OF NET ENERGY

6.1 Delivery and Acceptance of Net Energy - Except when either Party's performance is excused as provided herein, Idaho Power will purchase and Seller will sell all of the Net Energy to Idaho Power at the Point of Delivery. All Inadvertent Energy produced by the Facility will also be delivered by the Seller to Idaho Power at the Point of Delivery. At no time will the total amount of Net Energy and/or Inadvertent Energy produced by the Facility and delivered by the Seller to the Point of Delivery exceed the Maximum Capacity Amount.

6.2 Net Energy Amounts - Seller intends to produce and deliver Net Energy in the following monthly amounts:

6.2.1 Initial Year Monthly Net Energy Amounts:

	<u>Month</u>	<u>kWh</u>
Season 1	March	5,395,947
	April	4,370,833
	May	4,105,320
Season 2	July	3,401,877
	August	2,791,276
	November	4,394,931
	December	5,206,030

Season 3	June	4,962,172
	September	4,272,864
	October	4,102,945
	January	4,580,098
	February	5,720,491

6.2.2 Ongoing Monthly Net Energy Amounts - Seller shall initially provide Idaho Power with one year of monthly generation estimates (Initial Year Monthly Net Energy Amounts) and beginning at the end of month nine and every three months thereafter provide Idaho Power with an additional three months of forward generation estimates. This information will be provided to Idaho Power by written notice in accordance with paragraph 28.1, no later than 5:00 PM of the 5th day following the end of the previous month. If the Seller does not provide the Ongoing Monthly Net Energy amounts in a timely manner, Idaho Power will use the most recent 3 months of the Initial Year Monthly Net Energy Amounts specified in paragraph 6.2.1 for the next 3 months of monthly Net Energy amounts.

6.2.3 Seller's Adjustment of Net Energy Amount –

6.2.3.1 No later than the Operation Date, by written notice given to Idaho Power in accordance with paragraph 28.1, the Seller may revise all of the previously provided Initial Year Monthly Net Energy Amounts.

6.2.3.2 Beginning with the end of the 3rd month after the Operation Date and at the end of every third month thereafter: (1) the Seller may not revise the immediate next three months of previously provided Net Energy Amounts, (2) but by written notice given to Idaho Power in accordance with paragraph 28.1, no later than 5:00 PM of the 5th day following the end of the previous month, the Seller may revise all other previously provided Net Energy Amounts. Failure to provide timely written notice of changed amounts will be deemed to be an election of no change.

6.2.4 Idaho Power Adjustment of Net Energy Amount – If Idaho Power is excused from accepting the Seller’s Net Energy as specified in paragraph 14.2.1 or if the Seller declares a Suspension of Energy Deliveries as specified in paragraph 14.3.1 and the Seller’s declared Suspension of Energy Deliveries is accepted by Idaho Power, the Net Energy Amount as specified in paragraph 6.2 for the specific month in which the reduction or suspension under paragraph 14.2.1 or 14.3.1 occurs will be reduced in accordance with the following:

Where:

NEA = Current Month’s Net Energy Amount (Paragraph 6.2)

SGU = a.) If Idaho Power is excused from accepting the Seller’s Net Energy as specified in paragraph 14.2.1 this value will be equal to the percentage of curtailment as specified by Idaho Power multiplied by the TGU as defined below.

b.) If the Seller declares a Suspension of Energy Deliveries as specified in paragraph 14.3.1 this value will be the sum of the individual generation units size ratings as specified in Appendix B that are impacted by the circumstances causing the Seller to declare a Suspension of Energy Deliveries.

TGU = Sum of all of the individual generator ratings of the generation units at this Facility as specified in Appendix B of this agreement.

RSH = Actual hours the Facility’s Net Energy deliveries were either reduced or suspended under paragraph 14.2.1 or 14.3.1

TH = Actual total hours in the current month

Resulting formula being:

$$\text{Adjusted Net Energy Amount} = \text{NEA} - \left(\left(\frac{\text{SGU}}{\text{TGU}} \times \text{NEA} \right) \times \left(\frac{\text{RSH}}{\text{TH}} \right) \right)$$

This Adjusted Net Energy Amount will be used in applicable Surplus Energy and Shortfall Energy calculations for only the specific month in which Idaho Power was excused from accepting the Seller’s Net Energy or the Seller declared a Suspension of Energy.

6.3 Unless excused by an event of Force Majeure, Seller's failure to deliver Net Energy in any Contract Year in an amount equal to at least ten percent (10%) of the sum of the Initial Year Net Energy Amounts as specified in paragraph 6.2 shall constitute an event of default.

ARTICLE VII: PURCHASE PRICE AND METHOD OF PAYMENT

7.1 Base Energy Purchase Price – For all Base Energy, Idaho Power will pay the non-levelized energy price in accordance with Commission Order 29391 with seasonalization factors applied:

<u>Year</u>	<u>Season 1 - (73.50 %)</u> <u>Mills/kWh</u>	<u>Season 2 - (120.00 %)</u> <u>Mills/kWh</u>	<u>Season 3 - (100.00 %)</u> <u>Mills/kWh</u>
2006	37.85	61.80	51.50
2007	38.73	63.23	52.69
2008	39.62	64.68	53.90
2009	40.53	66.17	55.14
2010	41.46	67.69	56.41
2011	42.42	69.25	57.71
2012	43.39	70.85	59.04
2013	44.39	72.48	60.40
2014	45.42	74.16	61.80
2015	46.47	75.86	63.22
2016	47.54	77.62	64.68
2017	48.63	79.40	66.17
2018	49.76	81.24	67.70
2019	50.91	83.11	69.26
2020	52.07	85.02	70.85
2021	53.28	86.99	72.49
2022	54.51	88.99	74.16
2023	55.76	91.04	75.87
2024	57.05	93.14	77.62
2025	58.37	95.29	79.41
2026	59.72	97.50	81.25
2027	61.09	99.74	83.12

7.2 Surplus Energy Price - For all Surplus Energy, Idaho Power shall pay to the Seller the current month's Market Energy Cost or the Base Energy Purchase Price specified in paragraph 7.1, whichever is lower.

7.3 Shortfall Energy – If the month's Net Energy is less than 90% of the monthly Net Energy Amount as specified in paragraph 6.2 of this Agreement for the corresponding month, Shortfall

Energy will be the difference between 90% of the monthly Net Energy Amount and the same month's actual Net Energy delivered to the Point of Delivery.

- 7.4 Shortfall Energy Price – For all Shortfall Energy, if the Market Energy Cost for the month in which the Shortfall Energy occurs is less than the Base Energy Purchase Price for the same month, the Shortfall Energy Price will be 0. If the Market Energy Cost for the month in which the Shortfall Energy occurs is greater than the Base Energy Purchase Price for the same month, the Shortfall Energy Price will be the current month's Market Energy Cost less the Base Energy Purchase Price. If the current month's Market Energy Cost less the Base Energy Purchase Price is greater than 150 percent of the Base Energy Purchase Price, then the Shortfall Energy Price will be 150 percent of the Base Energy Purchase Price.
- 7.5 Shortfall Energy Payment - The Shortfall Energy Payment amount is the Shortfall Energy amount multiplied by the Shortfall Energy Price. The Shortfall Energy Payment will be withheld from the current month's energy payment. If the current month's energy payment is less than the Shortfall Energy Payment, the Seller will make payment to Idaho Power of the unpaid balance within 15 days of being notified of the outstanding balance. Shortfall Energy Payments are liquidated damages and not penalties. Seller's failure to make payment in full of the Shortfall Energy Payment within the specified time will be a Material Breach of this Agreement.
- 7.6 Inadvertent Energy –
- 7.6.1 Inadvertent Energy is electric energy produced by the Facility, expressed in kWh, which the Seller delivers to Idaho Power at the Point of Delivery that exceeds 10,000 kW multiplied by the hours in the specific month in which the energy was delivered. (For example January contains 744 hours. 744 hours times 10,000 kW = 7,440,000 kWh. Energy delivered in January in excess of 7,440, 000 kWh in this example would be Inadvertent Energy.)
- 7.6.2 Although Seller intends to design and operate the Facility to generate no more than 10 average MW and therefore does not intend to generate Inadvertent Energy, Idaho Power will accept Inadvertent Energy that does not exceed the Maximum Capacity

Amount but will not purchase or pay for Inadvertent Energy.

- 7.7 Payment Due Date – Energy payments to the Seller will be disbursed within 30 days of the date which Idaho Power receives and accepts the documentation of the monthly Net Energy actually delivered to Idaho Power as specified in Appendix A.
- 7.8 Continuing Jurisdiction of the Commission .This Agreement is a special contract and, as such, the rates, terms and conditions contained in this Agreement will be construed in accordance with Idaho Power Company v. Idaho Public Utilities Commission and Afton Energy, Inc., 107 Idaho 781, 693 P.2d 427 (1984), Idaho Power Company v. Idaho Public Utilities Commission, 107 Idaho 1122, 695 P.2d 1 261 (1985), Afton Energy, Inc, v. Idaho Power Company, 111 Idaho 925, 729 P.2d 400 (1986), Section 210 of the Public Utilities Regulatory Policies Act of 1978 and 18 CFR §292.303-308

ARTICLE VIII: ENVIRONMENTAL ATTRIBUTES

- 8.1 Idaho Power waives any claim to ownership of Environmental Attributes. Environmental Attributes include, but are not limited to, Green Tags, Green Certificates, Renewable Energy Credits (RECs) and Tradable Renewable Certificates (TRCs) directly associated with the production of energy from the Seller's Facility.

ARTICLE IX: FACILITY AND INTERCONNECTION

- 9.1 Design of Facility - Seller will design, construct, install, own, operate and maintain the Facility and any Seller-owned Interconnection Facilities so as to allow safe and reliable generation and delivery of Net Energy and Inadvertent Energy to the Idaho Power Point of Delivery for the full term of the Agreement.
- 9.2 Interconnection Facilities - Except as specifically provided for in this Agreement, the required Interconnection Facilities will be in accordance with Schedule 72, the Generation Interconnection Process and Appendix B. The Seller is responsible for all costs associated with this equipment as specified in Schedule 72 and the Generation Interconnection Process, including but not limited to

initial costs incurred by Idaho Power for equipment costs, installation costs and ongoing monthly Idaho Power operations and maintenance expenses.

ARTICLE X: DISCONNECTION EQUIPMENT

- 10.1 Except as specifically provided for in this Agreement, the required Disconnection Equipment will be in accordance with Schedule 72, the Generation Interconnection Process and Appendix B. The Seller is responsible for all costs associated with this equipment as specified in Schedule 72 and the Generation Interconnection Process, including but not limited to initial costs incurred by Idaho Power for equipment costs, installation costs and Idaho Power ongoing monthly operations and monthly maintenance expenses.

ARTICLE XI: METERING AND TELEMETRY

- 11.1 Metering and Telemetry - Idaho Power shall, for the account of Seller, provide, install, and maintain Metering Equipment to be located at a mutually agreed upon location to record and measure power flows to Idaho Power in accordance with Schedule 72, Generation Interconnection Process and Appendix B of this Agreement. The Metering Equipment will be at the location and the type required to measure, record and report the Facility's Net Energy, Station Use, Inadvertent Energy and maximum energy deliveries (kW) in a manner to provide Idaho Power adequate energy measurement data to administer this Agreement and to integrate this Facility's energy production into the Idaho Power electrical system. All Metering Equipment and installation costs shall be borne by Seller, including costs incurred by Idaho Power for inspecting and testing such equipment at reasonable intervals at Idaho Power's actual cost of providing this Metering Equipment and services. The Metering Equipment shall be at the location described in Appendix B of this Agreement. All meters used to determine the billing hereunder shall be sealed and the seals shall be broken only by Idaho Power when the meters are to be inspected, tested or adjusted.
- 11.2 Meter Inspection - Idaho Power shall inspect installations annually and test meters on the

applicable periodic test schedule relevant to the equipment installed as specified in Appendix B of this Agreement. If requested by Seller, Idaho Power shall make a special inspection or test of a meter and Seller shall pay the reasonable costs of such special inspection. Both Parties shall be notified of the time when any inspection or test shall take place, and each Party may have representatives present at the test or inspection. If a meter is found to be inaccurate or defective, it shall be adjusted, repaired or replaced, at Idaho Power's expense in order to provide accurate metering. If a meter fails to register, or if the measurement made by a meter during a test varies by more than two percent (2 %) from the measurement made by the standard meter used in the test, adjustment (either upward or downward) to the payments Seller has received shall be made to correct those payments affected by the inaccurate meter for the actual period during which inaccurate measurements were made. If the actual period cannot be determined, corrections to the payments will be based on the shorter of (1) a period equal to one-half the time from the date of the last previous test of the meter to the date of the test which established the inaccuracy of the meter; or (2) six (6) months.

- 11.3 Telemetry – Idaho Power will install, operate and maintain at Seller's expense metering, communications and telemetry equipment which will be capable of providing Idaho Power with continuous instantaneous telemetry of Seller's Net Energy and Inadvertent Energy produced and delivered to the Idaho Power Point of Delivery to Idaho Power's Designated Dispatch Facility.

ARTICLE XII - RECORDS

- 12.1 Maintenance of Records - Seller shall maintain at the Facility or such other location mutually acceptable to the Parties adequate total generation, Net Energy, Station Use, Inadvertent Energy and maximum generation (kW) records in a form and content recommended by Idaho Power.
- 12.2 Inspection - Either Party, after reasonable notice to the other Party, shall have the right, during normal business hours, to inspect and audit any or all generation, Net Energy, Station Use, Inadvertent Energy and maximum generation (kW) records pertaining to the Seller's Facility.

ARTICLE XIII - PROTECTION

13.1 Seller shall construct, operate and maintain the Facility and Seller-furnished Interconnection Facilities in accordance with Schedule 72, the Generation Interconnection Process, Appendix B of this Agreement, Prudent Electrical Practices, the National Electrical Code, the National Electrical Safety Code and any other applicable local, state and federal codes. Seller acknowledges receipt of the Generation Interconnection Process. If, in the reasonable opinion of Idaho Power, Seller's operation of the Facility or Interconnection Facilities is unsafe or may otherwise adversely affect Idaho Power's equipment, personnel or service to its customers, Idaho Power may physically interrupt the flow of energy from the Facility as specified within Schedule 72, the Generation Interconnection Process or take such other reasonable steps as Idaho Power deems appropriate. Except in the case of an emergency, Idaho Power will attempt to notify Seller of such interruption prior to its occurrence as provided in paragraph 14.9. Seller shall provide and maintain adequate protective equipment sufficient to prevent damage to the Facility and Seller-furnished Interconnection Facilities. In some cases, some of Seller's protective relays will provide back-up protection for Idaho Power's facilities. In that event, Idaho Power will test such relays annually and Seller will pay the actual cost of such annual testing.

ARTICLE XIV: OPERATIONS

14.1 Communications - Idaho Power and the Seller shall maintain appropriate operating communications through Idaho Power's Designated Dispatch Facility in accordance with Appendix A of this Agreement.

14.2 Energy Acceptance -

14.2.1 Idaho Power shall be excused from accepting and paying for Net Energy or accepting Inadvertent Energy produced by the Facility and delivered by the Seller to the Point of Delivery, if it is prevented from doing so by an event of Force Majeure, or if Idaho Power determines that curtailment, interruption or reduction of Net Energy or Inadvertent

Energy deliveries is necessary because of line construction or maintenance requirements, emergencies, electrical system operating conditions on its system or as otherwise required by Prudent Electrical Practices. If, for reasons other than an event of Force Majeure, Idaho Power requires such a curtailment, interruption or reduction of Net Energy deliveries for a period that exceeds twenty (20) days, beginning with the twenty-first day of such interruption, curtailment or reduction, Seller will be deemed to be delivering Net Energy at a rate equivalent to the pro rata daily average of the amounts specified for the applicable month in paragraph 6.2. Idaho Power will notify Seller when the interruption, curtailment or reduction is terminated.

14.2.2 If, in the reasonable opinion of Idaho Power, Seller's operation of the Facility or Interconnection Facilities is unsafe or may otherwise adversely affect Idaho Power's equipment, personnel or service to its customers, Idaho Power may physically interrupt the flow of energy from the Facility as specified within Schedule 72 or take such other reasonable steps as Idaho Power deems appropriate.

14.2.3 Under no circumstances will the Seller deliver Net Energy and/or Inadvertent Energy from the Facility to the Point of Delivery in an amount that exceeds the Maximum Capacity Amount. Seller's failure to limit deliveries to the Maximum Capacity Amount will be a Material Breach of this Agreement.

14.3 Seller Declared Suspension of Energy Deliveries

14.3.1 If the Seller's Facility experiences a forced outage due to equipment failure which is not caused by an event of Force Majeure or by neglect, disrepair or lack of adequate preventative maintenance of the Seller's Facility, Seller may, after giving notice as provided in paragraph 14.3.2 below, temporarily suspend all deliveries of Net Energy to Idaho Power from the Facility or from individual generation unit(s) within the Facility impacted by the forced outage for a period of not less than 48 hours to correct the forced outage condition ("Declared Suspension of Energy Deliveries"). The Seller's Declared Suspension of Energy Deliveries will begin at the start of the next full hour following the

Seller's telephone notification as specified in paragraph 14.3.2 and will continue for the time as specified (not less than 48 hours) in the written notification provided by the Seller. In the month(s) in which the Declared Suspension of Energy occurred, the Net Energy Amount will be adjusted as specified in paragraph 6.2.4.

- 14.3.2 If the Seller desires to initiate a Declared Suspension of Energy Deliveries as provided in paragraph 14.3.1, the Seller will notify the Designated Dispatch Facility by telephone. The beginning hour of the Declared Suspension of Energy Deliveries will be at the earliest the next full hour after making telephone contact with Idaho Power. The Seller will, within 24 hours after the telephone contact, provide Idaho Power a written notice in accordance with Article XXVIII that will contain the beginning hour and duration of the Declared Suspension of Energy Deliveries and a description of the conditions that caused the Seller to initiate a Declared Suspension of Energy Deliveries. Idaho Power will review the documentation provided by the Seller to determine Idaho Power's acceptance of the described forced outage as qualifying for a Declared Suspension of Energy Deliveries as specified in paragraph 14.3.1. Idaho Power's acceptance of the Seller's forced outage as an acceptable forced outage will be based upon the clear documentation provided by the Seller that the forced outage is not due do an event of Force Majeure or by neglect, disrepair or lack of adequate preventative maintenance of the Seller's Facility.
- 14.5 Voltage Levels - Seller, in accordance with Prudent Electrical Practices shall minimize voltage fluctuations and maintain voltage levels acceptable to Idaho Power. Idaho Power may, in accordance with Prudent Electrical Practices, upon one hundred eighty (180) days' notice to the Seller, change its nominal operating voltage level by more than ten percent (10%) at the Point of Delivery, in which case Seller shall modify, at Idaho Power's expense, Seller's equipment as necessary to accommodate the modified nominal operating voltage level.
- 14.6 Generator Ramping - Idaho Power, in accordance with Prudent Electrical Practices, shall have the right to limit the rate that generation is changed at startup, during normal operation or following reconnection to Idaho Power's electrical system. Generation ramping may be required to permit

Idaho Power's voltage regulation equipment time to respond to changes in power flow.

- 14.7 Scheduled Maintenance – On or before January 31 of each calendar year, Seller shall submit a written proposed maintenance schedule of significant Facility maintenance for that calendar year and Idaho Power and Seller shall mutually agree as to the acceptability of the proposed schedule. The Parties determination as to the acceptability of the Seller's timetable for scheduled maintenance will take into consideration Prudent Electrical Practices, Idaho Power system requirements and the Seller's preferred schedule. Neither Party shall unreasonably withhold acceptance of the proposed maintenance schedule.
- 14.8 Maintenance Coordination - The Seller and Idaho Power shall, to the extent practical, coordinate their respective line and Facility maintenance schedules such that they occur simultaneously.
- 14.9 Contact Prior to Curtailment - Idaho Power will make a reasonable attempt to contact the Seller prior to exercising its rights to curtail, interrupt or reduce deliveries from the Seller's Facility. Seller understands that in the case of emergency circumstances, real time operations of the electrical system, and/or unplanned events Idaho Power may not be able to provide notice to the Seller prior to interruption, curtailment, or reduction of electrical energy deliveries to Idaho Power.

ARTICLE XV: INDEMNIFICATION AND INSURANCE

- 15.1 Indemnification - Each Party shall agree to hold harmless and to indemnify the other Party, its officers, agents, affiliates, subsidiaries, parent company and employees against all loss, damage, expense and liability to third persons for injury to or death of person or injury to property, proximately caused by the indemnifying Party's construction, ownership, operation or maintenance of, or by failure of, any of such Party's works or facilities used in connection with this Agreement. The indemnifying Party shall, on the other Party's request, defend any suit asserting a claim covered by this indemnity. The indemnifying Party shall pay all costs, including reasonable attorney fees that may be incurred by the other Party in enforcing this indemnity.
- 15.2 Insurance - During the term of this Agreement, Seller shall secure and continuously carry the

following insurance coverage:

- 15.2.1 Comprehensive General Liability Insurance for both bodily injury and property damage with limits equal to \$1,000,000, each occurrence, combined single limit. The deductible for such insurance shall be consistent with current Insurance Industry Utility practices for similar property.
- 15.2.2 The above insurance coverage shall be placed with an insurance company with an A.M. Best Company rating of A- or better and shall include:
- (a) An endorsement naming Idaho Power as an additional insured and loss payee as applicable; and
 - (b) A provision stating that such policy shall not be canceled or the limits of liability reduced without sixty (60) days' prior written notice to Idaho Power.
- 15.3 Seller to Provide Certificate of Insurance - As required in paragraph 4.1.5 herein and annually thereafter, Seller shall furnish Idaho Power a certificate of insurance, together with the endorsements required therein, evidencing the coverage as set forth above.
- 15.4 Seller to Notify Idaho Power of Loss of Coverage - If the insurance coverage required by paragraph 15.2 shall lapse for any reason, Seller will immediately notify Idaho Power in writing. The notice will advise Idaho Power of the specific reason for the lapse and the steps Seller is taking to reinstate the coverage. Failure to provide this notice and to expeditiously reinstate or replace the coverage will constitute a Material Breach of this Agreement.

ARTICLE XVI: FORCE MAJEURE

- 16.1 As used in this Agreement, "Force Majeure" or "an event of Force Majeure" means any cause beyond the control of the Seller or of Idaho Power which, despite the exercise of due diligence, such Party is unable to prevent or overcome. Force Majeure includes, but is not limited to, acts of God, fire, flood, storms, wars, hostilities, civil strife, strikes and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, or changes in law or regulation occurring after the Operation Date, which, by the exercise of reasonable foresight such party could not

reasonably have been expected to avoid and by the exercise of due diligence, it shall be unable to overcome. If either Party is rendered wholly or in part unable to perform its obligations under this Agreement because of an event of Force Majeure, both Parties shall be excused from whatever performance is affected by the event of Force Majeure, provided that:

- (1) The non-performing Party shall, as soon as is reasonably possible after the occurrence of the Force Majeure, give the other Party written notice describing the particulars of the occurrence.
- (2) The suspension of performance shall be of no greater scope and of no longer duration than is required by the event of Force Majeure.
- (3) No obligations of either Party which arose before the occurrence causing the suspension of performance and which could and should have been fully performed before such occurrence shall be excused as a result of such occurrence.

ARTICLE XVII: LAND RIGHTS

- 17.1 Seller to Provide Access - Seller hereby grants to Idaho Power for the term of this Agreement all necessary rights-of-way and easements to install, operate, maintain, replace, and remove Idaho Power's Metering Equipment, Interconnection Equipment, Disconnection Equipment, Protection Equipment and other Special Facilities necessary or useful to this Agreement, including adequate and continuing access rights on property of Seller. Seller warrants that it has procured sufficient easements and rights-of-way from third parties so as to provide Idaho Power with the access described above. All documents granting such easements or rights-of-way shall be subject to Idaho Power's approval and in recordable form.
- 17.2 Use of Public Rights-of-Way - The Parties agree that it is necessary to avoid the adverse environmental and operating impacts that would occur as a result of duplicate electric lines being constructed in close proximity. Therefore, subject to Idaho Power's compliance with paragraph 17.4, Seller agrees that should Seller seek and receive from any local, state or federal

governmental body the right to erect, construct and maintain Seller-furnished Interconnection Facilities upon, along and over any and all public roads, streets and highways, then the use by Seller of such public right-of-way shall be subordinate to any future use by Idaho Power of such public right-of-way for construction and/or maintenance of electric distribution and transmission facilities and Idaho Power may claim use of such public right-of-way for such purposes at any time. Except as required by paragraph 17.4, Idaho Power shall not be required to compensate Seller for exercising its rights under this paragraph 17.2.

17.3 Joint Use of Facilities - Subject to Idaho Power's compliance with paragraph 17.4, Idaho Power may use and attach its distribution and/or transmission facilities to Seller's Interconnection Facilities, may reconstruct Seller's Interconnection Facilities to accommodate Idaho Power's usage or Idaho Power may construct its own distribution or transmission facilities along, over and above any public right-of-way acquired from Seller pursuant to paragraph 17.2, attaching Seller's Interconnection Facilities to such newly constructed facilities. Except as required by paragraph 17.4, Idaho Power shall not be required to compensate Seller for exercising its rights under this paragraph 17.3.

17.4 Conditions of Use - It is the intention of the Parties that the Seller be left in substantially the same condition, both financially and electrically, as Seller existed prior to Idaho Power's exercising its rights under this Article XVII. Therefore, the Parties agree that the exercise by Idaho Power of any of the rights enumerated in paragraphs 17.2 and 17.3 shall: (1) comply with all applicable laws, codes and Prudent Electrical Practices, (2) equitably share the costs of installing, owning and operating jointly used facilities and rights-of-way. If the Parties are unable to agree on the method of apportioning these costs, the dispute will be submitted to the Commission for resolution and the decision of the Commission will be binding on the Parties, and (3) shall provide Seller with an interconnection to Idaho Power's system of equal capacity and durability as existed prior to Idaho Power exercising its rights under this Article XVII.

ARTICLE XVIII: LIABILITY; DEDICATION

18.1 Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public or affect the status of Idaho Power as an independent public utility corporation or Seller as an independent individual or entity.

ARTICLE XIX: SEVERAL OBLIGATIONS

19.1 Except where specifically stated in this Agreement to be otherwise, the duties, obligations and liabilities of the Parties are intended to be several and not joint or collective. Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or impose a trust or partnership duty, obligation or liability on or with regard to either Party. Each Party shall be individually and severally liable for its own obligations under this Agreement.

ARTICLE XX: WAIVER

20.1 Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or other matter.

ARTICLE XXI: CHOICE OF LAWS AND VENUE

21.1 This Agreement shall be construed and interpreted in accordance with the laws of the State of Idaho without reference to its choice of law provisions.

21.2 Venue for any litigation arising out of or related to this Agreement will lie in the District Court of the Fourth Judicial District of Idaho in and for the County of Ada.

ARTICLE XXII: DISPUTES AND DEFAULT

22.1 Disputes - All disputes related to or arising under this Agreement, including, but not limited to,

the interpretation of the terms and conditions of this Agreement, will be submitted to the Commission for resolution.

22.2 Notice of Default -

22.2.1 Defaults. If either Party fails to perform any of the terms or conditions of this Agreement (an “event of default”), the nondefaulting Party shall cause notice in writing to be given to the defaulting Party, specifying the manner in which such default occurred. If the defaulting Party shall fail to cure such default within the sixty (60) days after service of such notice, or if the defaulting Party reasonably demonstrates to the other Party that the default can be cured within a commercially reasonable time but not within such sixty (60) day period and then fails to diligently pursue such cure, then, the nondefaulting Party may, at its option, terminate this Agreement and/or pursue its legal or equitable remedies.

22.2.2 Material Breaches – The notice and cure provisions in paragraph 22.2.1 do not apply to defaults identified in this Agreement as Material Breaches. Material Breaches must be cured as expeditiously as possible following occurrence of the breach.

22.3 Security for Performance - Prior to the Operation Date and thereafter for the full term of this Agreement, Seller will provide Idaho Power with the following:

22.3.1 Insurance - Evidence of compliance with the provisions of paragraph 15.2. If Seller fails to comply, such failure will be a Material Breach and may only be cured by Seller supplying evidence that the required insurance coverage has been replaced or reinstated;

22.3.2 Engineer’s Certifications - Every three (3) years after the Operation Date, Seller will supply Idaho Power with a Certification of Ongoing Operations and Maintenance (O & M) from a Registered Professional Engineer licensed in the State of Idaho, which Certification of Ongoing O & M shall be in the form specified in Appendix C. Seller’s failure to supply the required certificate will be an event of default. Such a default may only be cured by Seller providing the required certificate; and

22.3.3 Licenses and Permits - During the full term of this Agreement, Seller shall maintain compliance with all permits and licenses described in paragraph 4.1.1 of this Agreement. In addition, Seller will supply Idaho Power with copies of any new or additional permits or licenses. At least every fifth Contract Year, Seller will update the documentation described in Paragraph 4.1.1. If at any time Seller fails to maintain compliance with the permits and licenses described in paragraph 4.1.1 or to provide the documentation required by this paragraph, such failure will be an event of default and may only be cured by Seller submitting to Idaho Power evidence of compliance from the permitting agency.

ARTICLE XXIII: GOVERNMENTAL AUTHORIZATION

23.1 This Agreement is subject to the jurisdiction of those governmental agencies having control over either Party of this Agreement.

ARTICLE XXIV: COMMISSION ORDER

24.1 This Agreement shall become finally effective upon the Commission's approval of all terms and provisions hereof without change or condition and declaration that all payments to be made to Seller hereunder shall be allowed as prudently incurred expenses for ratemaking purposes.

ARTICLE XXV: SUCCESSORS AND ASSIGNS

25.1 This Agreement and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties hereto, except that no assignment hereof by either Party shall become effective without the written consent of both Parties being first obtained. Such consent shall not be unreasonably withheld. Notwithstanding the foregoing, any party which Idaho Power may consolidate, or into which it may merge, or to which it may convey or transfer substantially all of its electric utility assets, shall automatically, without further act, and without need of consent or approval by the Seller, succeed to all of Idaho Power's rights,

obligations and interests under this Agreement. This article shall not prevent a financing entity with recorded or secured rights from exercising all rights and remedies available to it under law or contract. Idaho Power shall have the right to be notified by the financing entity that it is exercising such rights or remedies.

ARTICLE XXVI: MODIFICATION

26.1 No modification to this Agreement shall be valid unless it is in writing and signed by both Parties and subsequently approved by the Commission.

ARTICLE XXVII: TAXES

27.1 Each Party shall pay before delinquency all taxes and other governmental charges which, if failed to be paid when due, could result in a lien upon the Facility or the Interconnection Facilities.

ARTICLE XXVIII: NOTICES

28.1 All written notices under this agreement shall be directed as follows and shall be considered delivered when deposited in the U. S. Mail, first-class postage prepaid, as follows:

To Seller: Magic Wind, LLC
Attn: Armand M. Eckert
716-B East 4900 North
Buhl, Idaho 83316

To Idaho Power:

Original document to:

Vice President, Power Supply
Idaho Power Company
P O Box 70
Boise, Idaho 83707

Copy of document to:

Cogeneration and Small Power Production
Idaho Power Company
P O Box 70
Boise, Idaho 83707

ARTICLE XXIX: ADDITIONAL TERMS AND CONDITIONS

29.1 This Agreement includes the following appendices, which are attached hereto and included by reference:

Appendix A	-	Generation Scheduling and Reporting
Appendix B	-	Facility and Point of Delivery
Appendix C	-	Engineer's Certifications

ARTICLE XXX: SEVERABILITY

30.1 The invalidity or unenforceability of any term or provision of this Agreement shall not affect the validity or enforceability of any other terms or provisions and this Agreement shall be construed in all other respects as if the invalid or unenforceable term or provision were omitted.

ARTICLE XXXI: COUNTERPARTS

31.1 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

ARTICLE XXXII: ENTIRE AGREEMENT

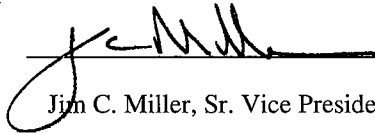
32.1 This Agreement constitutes the entire Agreement of the Parties concerning the subject matter hereof and supersedes all prior or contemporaneous oral or written agreements between the Parties concerning the subject matter hereof.

IN WITNESS WHEREOF, The Parties hereto have caused this Agreement to be executed
in their respective names on the dates set forth below:

Idaho Power Company

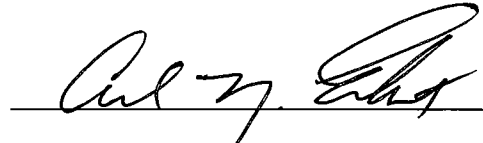
Magic Wind, L.L.C.

By



Jim C. Miller, Sr. Vice President, Power Supply

By



Armand M. Eckert, Secretary / Treasurer

Dated

OCT 11, 2006

"Idaho Power"

Dated

10-5-06

"Seller"

APPENDIX A

A -1 MONTHLY POWER PRODUCTION AND SWITCHING REPORT

At the end of each month the following required documentation will be submitted to:

Idaho Power Company
Attn: Cogeneration and Small Power Production
P O Box 70
Boise, Idaho 83707

The Meter readings required on this report will be the reading on the Idaho Power Meter Equipment measuring the Facility's total energy production, Station Usage, Inadvertent Energy delivered to Idaho Power and the maximum generated energy (kW) as recorded on the Meter Equipment and/or any other required energy measurements to adequately administer this Agreement.

Idaho Power Company

Cogeneration and Small Power Production

MONTHLY POWER PRODUCTION AND SWITCHING REPORT

Month _____ Year _____

Project Name _____ Project Number: _____

Address _____ Phone Number: _____

City _____ State _____ Zip _____

	<u>Facility Output</u>	<u>Station Usage</u>	<u>Station Usage</u>	<u>Metered Maximum Generation</u>
Meter Number: _____	_____	_____	_____	kW
End of Month kWh Meter Reading: _____	_____	_____	_____	
Beginning of Month kWh Meter: _____	_____	_____	_____	
Difference: _____	_____	_____	_____	<u>Net Generation</u>
Times Meter Constant: _____	_____	_____	_____	
kWh for the Month: _____	-	-	=	
Metered Demand: _____	_____	_____	_____	

Breaker Opening Record

<u>Date</u>	<u>Time</u>	<u>Meter</u>

* <u>Reason</u>

Breaker Closing Record

<u>Date</u>	<u>Time</u>	<u>Meter</u>

* **Breaker Opening Reason Codes**

- 1 Lack of Adequate Prime Mover
- 2 Forced Outage of Facility
- 3 Disturbance of IPCo System
- 4 Scheduled Maintenance
- 5 Testing of Protection Systems
- 6 Cause Unknown
- 7 Other (Explain)

I hereby certify that the above meter readings are true and correct as of Midnight on the last day of the above month and that the switching record is accurate and complete as required by the Firm Energy Sales Agreement to which I am a Party.

Signature

Date

A-2 ROUTINE REPORTING

Idaho Power Contact Information

Daily Energy Production Reporting

Call daily by 10 a.m., 1-800-356-4328 or 1-800-635-1093 and leave the following information:

- Project Identification - Project Name and Project Number
- Current Meter Reading
- Estimated Generation for the current day
- Estimated Generation for the next day

Planned and Unplanned Project outages

Call 1-800-345-1319 and leave the following information:

- Project Identification - Project Name and Project Number
- Approximate time outage occurred
- Estimated day and time of project coming back online

Seller's Contact Information

24-Hour Project Operational Contact

Name: Armand M. Eckert
Telephone Number: 208-543-8518
Cell Phone: 208-308-7774

Project On-site Contact information

Telephone Number: 208-680-0809

APPENDIX B

FACILITY AND POINT OF DELIVERY

PROJECT NO. 31315500

MAGIC WIND LLC

B-1 DESCRIPTION OF FACILITY

The Facility will consist of 8 Clipper Wind turbines with individual nameplate ratings of 2.5 MW for each unit, for a total Facility nameplate generator rating of 20 MW. Any change in the manufacturer and/or model of turbines used in the Facility shall require the written consent of Idaho Power, which consent will not unreasonably be withheld.

B-2 LOCATION OF FACILITY

Near:

Sections: 1, 2, 11 Township: S9 Range: 13E County: Twin Falls Idaho.

B-3 SCHEDULED FIRST ENERGY AND OPERATION DATE

Seller has selected July 31, 2007 as the estimated Scheduled First Energy Date.

Seller has selected December 31, 2007 as the estimated Scheduled Operation Date.

In making these selections, Seller recognizes that adequate testing of the Facility and completion of all requirements in paragraph 5.2 of this Agreement must be completed prior to the project being granted an Operation Date. Idaho Power, based on the information supplied by the Seller, will schedule its construction in accordance with Schedule 72 and the Generation Interconnection Process.

The Parties acknowledge that a dispute currently exists regarding cost responsibility for funding upgrades to Idaho Power's transmission system required by the interconnection of the Facility and of other generating facilities to the Idaho Power system. There is currently pending before the Commission Case No. IPC-E-06-21, which seeks a resolution of some aspects of the dispute.

If the dispute regarding cost responsibility for transmission upgrades is not resolved within a reasonable period of time, the Parties agree to cooperate to select revised First Energy Dates and revised Scheduled Operation Dates.

B-4 **MAXIMUM CAPACITY AMOUNT:** This value will be 20.0 MW which is consistent with the value provided by the Seller to Idaho Power in the Generation Interconnection process. This value is the maximum energy (MW) that potentially could be delivered by the Seller's Facility to the Idaho Power electrical system at any moment in time.

B-5 **POINT OF DELIVERY**

"Point of Delivery" means, unless otherwise agreed by both Parties, the point of where the Sellers Facility's energy is delivered to the Idaho Power electrical system. The Idaho Power Generation Interconnection process will determine the specific Point of Delivery for this Facility. Upon completion of the Generation Interconnection process the Point of Delivery identified by this process will become an integral part of this Agreement.

B-6 **LOSSES**

If the Idaho Power Metering equipment is capable of measuring the exact energy deliveries by the Seller to the Idaho Power electrical system at the Point of Delivery, no Losses will be calculated for this Facility. If the Idaho Power Metering is unable to measure the exact energy deliveries by the Seller to the Idaho Power electrical system at the Point of Delivery, a Losses calculation will be established to measure the energy losses (kWh) between the Seller's Facility and the Idaho Power Point of Delivery. This loss calculation will be initially set at 2% of the kWh energy production recorded on the Facility generation metering equipment. At such time as Seller provides Idaho Power with the electrical equipment specifications (transformer loss specifications, conductor sizes, etc) of all of the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power will configure a revised loss calculation formula to

be agreed to by both parties and used to calculate the kWh Losses for the remaining term of the Agreement. If at anytime during the term of this Agreement, Idaho Power determines that the loss calculation does not correctly reflect the actual kWh losses attributed to the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power may adjust the calculation and retroactively adjust the previous months kWh loss calculations.

B-7 METERING AND TELEMETRY

The Idaho Power Generation Interconnection process will determine the specific metering and telemetry requirements for this Facility. At the minimum the Metering Equipment and Telemetry equipment must be able to provide and record hourly energy deliveries to the Point of Delivery and any other energy measurements required to administer this Agreement. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Seller will arrange for and make available at Seller's cost communication circuit(s) compatible to Idaho Power's communications equipment and dedicated to Idaho Power's use terminating at the Idaho Power facilities capable of providing Idaho Power with continuous instantaneous information on the Facilities energy production. Idaho Power provided equipment will be owned and maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total metering cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

B-7 SPECIAL FACILITIES

The Idaho Power Generation Interconnection process will determine the Special Facility

requirements for this Facility. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Idaho Power owned equipment will be maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total Special Facility cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

B-8 REACTIVE POWER

The Idaho Power Generation Interconnection process will determine the reactive power required to be supplied by Idaho Power to the Seller, based upon information provided by the Seller. The Generation Interconnection process will specify the equipment required on the Idaho Power system to meet the Facility's reactive power requirements. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Idaho Power owned equipment will be maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total reactive power cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

B-9 DISCONNECTION EQUIPMENT

Disconnection Equipment is required to insure that the Seller's Facility will be disconnected from Idaho Power's system in the event of (1) the Seller's delivery of energy exceeds the Maximum Capacity Amount or (2) Idaho Power or the Seller require interruption or curtailment of energy deliveries to Idaho Power or (3) a disturbance on either Idaho Power's system or the Seller's Facility. The Idaho Power Generation Interconnection process will determine the Disconnection Equipment specifications and requirements for this Facility, this equipment is for protection of the Idaho Power system and equipment only. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. Seller will install all Seller provided equipment, control wire and conduit necessary for the operation of the Disconnection Equipment. Through the Generation Interconnection process, Idaho Power will supply details for the disconnection panel and will test the equipment prior to any operations of the Facility, Seller will provide drawings of their interconnection wiring for engineering approval prior to installation. The entire Generation Interconnection process, including but not limited to the equipment specifications and requirements will become an integral part of this Agreement. Idaho Power owned equipment will be maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total Disconnection Equipment cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

B-10 COSTS

The Idaho Power Generation Interconnection process and this Agreement will identify all cost for this Facility to interconnect to the Idaho Power system, including but not limited to the cost of Metering equipment, Telemetry equipment, Special Facilities, Reactive Power, Disconnection

equipment, Protection equipment and Interconnection Equipment. As specified in the Generation Interconnection process and in accordance with Schedule 72 and this Agreement the Seller will reimburse Idaho Power for all costs associated with this equipment. In addition to the equipment, installation and construction charges as specified above, during the term of this Agreement, Seller will pay Idaho Power the monthly operation and maintenance charge specified in Schedule 72 or its successor schedules(s). The monthly operations and maintenance charge will begin on the first day of the month following the date which Idaho Power has completed installation of the Idaho Power provided equipment and the interconnection equipment is available for use by the Facility. The monthly operations and maintenance charge will be based upon the initial cost paid by the Seller in accordance with Schedule 72. Upon reconciliation of the actual costs, in accordance with Schedule 72 the monthly operations and maintenance charge will be adjusted to reflect the actual cost incurred by Idaho Power and previously charged monthly operation and maintenance expense will be revised to reflect the actual cost incurred by Idaho Power. Idaho Power will refund or Seller will remit any underpayment of the adjusted monthly operations and maintenance charge within sixty (60) days of the determination of this amount.

B-11 SALVAGE

No later than sixty (60) days after the termination or expiration of this Agreement, Idaho Power will prepare and forward to Seller an estimate of the remaining value of those Idaho Power furnished Interconnection Facilities as required under Schedule 72, the Generation Interconnection Process and/or described in this Agreement, less the cost of removal and transfer to Idaho Power's nearest warehouse, if the Interconnection Facilities will be removed. If Seller elects not to obtain ownership of the Interconnection Facilities but instead wishes that Idaho Power reimburse the Seller for said Facilities the Seller may invoice Idaho Power for the net salvage value as estimated by Idaho Power and Idaho Power shall pay such amount to Seller within thirty (30) days after receipt of the invoice.

Seller shall have the right to offset the invoice amount against any present or future payments due Idaho Power.

APPENDIX C
ENGINEER'S CERTIFICATION
OF
OPERATIONS & MAINTENANCE POLICY

The undersigned _____, on behalf of himself and _____, hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter "Agreement," between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as IPCo Facility No. _____ and is hereinafter referred to as the "Project."
4. That the Project, which is commonly known as the _____ Project, is located in Section _____ Township _____ Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a twenty (20) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has reviewed and/or supervised the review of the Policy for Operation and Maintenance ("O&M") for this Project and it is his professional opinion that, provided said Project has been designed and built to appropriate standards, adherence to said O&M Policy will result in the Project's producing at or near the design electrical output, efficiency and plant factor for a twenty (20) year period.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.

10. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____

(P.E. Stamp)

Date _____

APPENDIX C
ENGINEER'S CERTIFICATION
OF
ONGOING OPERATIONS AND MAINTENANCE

The undersigned _____, on behalf of himself and _____ hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter "Agreement," between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as IPCo Facility No. _____ and hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the _____ Project, is located in Section _____ Township _____ Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a twenty (20) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has made a physical inspection of said Project, its operations and maintenance records since the last previous certified inspection. It is Engineer's professional opinion, based on the Project's appearance, that its ongoing O&M has been substantially in accordance with said O&M Policy; that it is in reasonably good operating condition; and that if adherence to said O&M Policy continues, the Project will continue producing at or near its design electrical output, efficiency and plant factor for the remaining _____ years of the Agreement.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.

10. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____

(P.E. Stamp)

Date _____

APPENDIX C
ENGINEER'S CERTIFICATION

OF
DESIGN & CONSTRUCTION ADEQUACY

The undersigned _____, on behalf of himself and _____, hereinafter collectively referred to as "Engineer", hereby states and certifies to Idaho Power as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Firm Energy Sales Agreement, hereinafter "Agreement", between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project, which is the subject of the Agreement and this Statement, is identified as IPCo Facility No _____ and is hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the _____ Project, is located in Section _____ Township _____ Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a _____ (____) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project and has made the analysis of the plans and specifications independently.
8. That Engineer has reviewed the engineering design and construction of the Project, including the civil work, electrical work, generating equipment, prime mover conveyance system, Seller furnished Interconnection Facilities and other Project facilities and equipment.
9. That the Project has been constructed in accordance with said plans and specifications, all

applicable codes and consistent with Prudent Electrical Practices as that term is described in the Agreement.

10. That the design and construction of the Project is such that with reasonable and prudent operation and maintenance practices by Seller, the Project is capable of performing in accordance with the terms of the Agreement and with Prudent Electrical Practices for a _____ (_____) year period.

11. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, in interconnecting the Project with its system, is relying on Engineer's representations and opinions contained in this Statement.

12. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____
(P.E. Stamp)

Date _____

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR) CASE NO. IPC-E-06-26
APPROVAL OF A FIRM ENERGY SALES)
AGREEMENT FOR THE SALE AND)
PURCHASE OF ELECTRIC ENERGY)
BETWEEN IDAHO POWER COMPANY) ORDER NO. 30206
AND MAGIC WIND PARK LLC)**

On October 27, 2006, Idaho Power Company (Idaho Power; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting approval of a 20-year Firm Energy Sales Agreement between Idaho Power and Magic Wind Park LLC (Magic Wind) dated October 11, 2006 (Agreement).

Background

On August 4, 2005, the Idaho Public Utilities Commission (Commission) in Case No. IPC-E-05-22, Order No. 29839, reduced the eligibility cap for avoided cost published rates for non-firm wind projects from 10 aMW to 100 kW, required individual negotiation for larger wind qualifying facilities (QFs), and established criteria for assessing QF contract entitlement. Reference Public Utility Regulatory Policies Act of 1978 (PURPA). By Commission Order No. 29872 the date for grandfathering eligibility was changed from July 1, 2004, the Notice of Petition date, to August 4, 2005, the date of Interlocutory Order No. 29839.

On October 20, 2005, Magic Wind in Case No. IPC-E-05-34 filed a Motion to Determine Exemption Status seeking a Commission determination that Magic Wind was exempt from the rate eligibility cap established in Commission Order No. 29839. On August 15, 2006, the Commission in Order No. 30109 determined that Magic Wind was entitled to an exemption. The Commission further declared that Magic Wind was not entitled to receive from Idaho Power a PURPA QF Purchase Power Agreement that established fixed prices for surplus energy outside the 90/110 performance band using the "Modified PacifiCorp Method." Reference Order No. 30000, Case No. PAC-E-05-9.

Agreement

The Magic Wind facility will be located in Sections 1, 2 and 11, Township 9 S, Range 13 E, Boise Meridian, Twin Falls County, Idaho. Magic Wind warrants that the facility

will be a qualified small power production facility (QF) under the applicable provisions of the Public Utility Regulatory Policies Act of 1978 (PURPA). The facility will consist of eight clipper wind turbines with individual nameplate ratings of 2.5 MW for each unit. The nameplate capacity of the facility will be 20 MW. The Agreement contains the non-levelized, published avoided cost rates set forth in Order No. 29391. Under normal and/or average operating conditions, Magic Wind will not generate more than 10 aMW on a monthly basis. Energy delivered in excess of this monthly amount is Inadvertent Energy. Idaho Power will accept Inadvertent Energy that does not exceed the Maximum Capacity Amount (20 MW) but will not purchase or pay for Inadvertent Energy. Agreement ¶ 7.6.

As reflected in the Application, following issuance of Commission exemption, Order No. 30109, Magic Wind inquired of Idaho Power as to whether it would be possible to utilize the methodology for computing shortfall energy payments the Commission approved in the Firm Energy Sales Agreement between Idaho Power and Fossil Gulch Wind Park LLC (Case No. IPC-E-04-19, Order No. 29630) rather than the methodology for determining shortfall energy payments established by Commission Order No. 29632 in Case No. IPC-E-04-8, the U.S. Geothermal case. Under the Fossil Gulch Method if the QF delivers less than 90% of the scheduled "net energy" amount (for reasons other than forced outage or force majeure events) the shortfall energy is priced at 85% of the market price, less the contract rate, the difference capped at 150% of contract rate. In the U.S. Geothermal case the Commission expressed a concern that under certain conditions use of the Fossil Gulch methodology could have adverse results for QFs. (Order No. 29632, p. 20.) Magic Wind has voluntarily selected the Fossil Gulch method. Agreement ¶¶ 7.3-7.5. Use of the Fossil Gulch methodology is a negotiated term of the Agreement and is mutually acceptable to Idaho Power and Magic Wind.

As reflected in the Application and Appendix B to the Agreement, Magic Wind is one of the generating resources that may be affected by the outcome of the Cassia Wind complaint, Case No. IPC-E-06-21, a dispute regarding cost responsibility for funding upgrades to Idaho Power's transmission system. Magic Wind has selected July 31, 2007 as the Scheduled First Energy Date and December 31, 2007 as the Scheduled Operation Date for the facility. These dates are subject to revision.

Section 24 of the Agreement provides that the Agreement will not become effective until the Commission has approved all of the Agreement's terms and conditions and declared

that all payments Idaho Power makes to Magic Wind for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.

On November 8, 2006, the Commission issued Notices of Application and Modified Procedure in Case No. IPC-E-06-26. The deadline for filing written comments was December 7, 2006. Comments were received from Commission Staff (Staff), State Representative Sharon Block and many supporters of wind and renewable energy. Representative Block's comments and all public comments support the proposed Agreement and recommend approval.

Representative Block, Chairman of the Health and Welfare Committee, has been studying energy issues in Idaho during the past year and has attended all of the Interim Energy meetings at which the proposal for Idaho's Energy Plan was developed. The Interim Energy Committee, she states, has placed renewable resources as a top priority.

Staff notes that the Magic Wind Agreement contains all of the current rates, terms and conditions contained in other recently approved Idaho Power PURPA contracts, but with one notable exception relating to pricing for energy deliveries that fall short of the "90/110 percent performance band," a provision that defines the range of predictability required for published rate eligibility, i.e., shortfall energy. In this Agreement, Magic Wind and Idaho Power are seeking to adopt terms first introduced in the Fossil Gulch Agreement, rather than terms used by all other subsequent Idaho Power contracts approved following Commission decisions in the U.S. Geothermal case (IPC-E-04-8/10).

In the case of the Magic Wind Agreement, Staff notes that clearly the parties are in mutual agreement. In addition, Staff does not believe that the negotiated terms of the Agreement violate any prior Commission Order. Terms in the U.S. Geothermal case relating to pricing shortfall energy, it states, were established at least in part because of U.S. Geothermal's objection to the terms proposed by Idaho Power that had been included in the Fossil Gulch contract signed previously. Furthermore, because the Commission allowed a deviation from the U.S. Geothermal terms in the Schwendiman case, it is Staff's belief that the Commission did not intend for the U.S. Geothermal terms to become the standard to which all future contracts must adhere. Staff believes that the Fossil Gulch, Schwendiman, and U.S. Geothermal methods all present reasonable alternatives for pricing of shortfall energy.

Staff expresses its concern, however, that price related items in PURPA contracts not become completely subject to negotiation between the parties. The Fossil Gulch, Schwendiman, and U.S. Geothermal contracts reflect three different methods for pricing shortfall energy. Fair pricing of shortfall energy is particularly important, Staff contends, for wind projects because Staff believes it is likely that they will frequently have shortfall energy due to the difficulty in predicting intermittent generation in advance. While the utilities are responsible for administering contracts, administration in the future, Staff contends, becomes much more difficult for both utilities and for the Commission Staff as more pricing variations are adopted. Staff cautions against creating a smorgasbord of different pricing options from which QFs can choose. Staff believes that three pricing options provide a reasonable and sufficient set of choices for future contracts.

Staff contends that it is impossible to determine whether the Fossil Gulch method or the U.S. Geothermal method offers greater protection to the utility and its ratepayers. Under some combinations of shortfall generation and market prices, one method results in a higher payment to the QF, but under other combinations, the other method produces a higher payment. Because future market prices are unknown, neither method, Staff contends, can be judged superior.

Both the Fossil Gulch and U.S. Geothermal methods are based on sound, yet different logic, Staff states. Under the Fossil Gulch method, a shortfall energy penalty is assessed whenever market prices (85% of Mid-C) are higher than the contract price. There is no penalty when market prices are less than the contract price. This method is based on the logic that in the event of a shortfall in generation, Idaho Power would have to pay more if it purchased replacement energy from the market at prices higher than specified in the contract. Under the U.S. Geothermal method, market prices are paid for shortfall energy whenever market prices are less than the contract rate. This method is based on the logic that market prices reflect non-firm energy rates, and non-firm rates are what should be paid for shortfall energy. Despite the differences in the two methods, Staff contends that both represent reasonable attempts to fairly price shortfall energy. Because both methods have been used in prior contracts, Staff is not opposed to allowing QFs and utilities to make a choice based on their own assessment of perceived risks, expected market prices, and expected wind project performance. Consequently,

Staff has no objection to the inclusion of the Fossil Gulch method in the Agreement, rather than the U.S. Geothermal method.

Staff recommends approval of all of the Agreement's terms and conditions and recommends that the Commission declare that all payments Idaho Power makes to Magic Wind for purchases of energy be allowed as prudently incurred expenses for ratemaking purposes.

Commission Findings

The Commission has reviewed and considered the filings of record in Case No. IPC-E-06-26, including the underlying Agreement and filed comments. Idaho Power has presented a Firm Energy Sales Agreement with Magic Wind Park LLC for Commission consideration and approval. The Agreement is for a 20 MW wind generating facility located in Twin Falls County, Idaho. As represented and pursuant to contract, under normal and/or average conditions the project will not exceed 10 aMW on a monthly basis. We thus find that the project is qualified to receive the published avoided cost rates approved by the Commission and by prior Order No. 30109 is exempt from the rate eligibility cap established in Commission Order No. 29839.

Magic Wind has voluntarily selected to utilize the Fossil Gulch methodology for computing shortfall energy payments. Agreement ¶¶ 7.3-7.5. Reference Case No. IPC-E-04-19, Order No. 29630. Use of the Fossil Gulch methodology is a negotiated term of the Agreement and is mutually acceptable to Idaho Power and Magic Wind. We accept that Magic Wind's selection of the Fossil Gulch methodology is based on its assessment of perceived risks, expected market prices, and expected wind project performance. We find that it is impossible at this time, because future market prices are unknown, to determine whether the Fossil Gulch method or the U.S. Geothermal method offers greater protection to the utility and its ratepayers. We find that the Fossil Gulch method presents a reasonable alternative for the pricing of shortfall energy and that it is reasonable to accept same pursuant to negotiated agreement of the parties.

The Commission finds that the Agreement submitted in this case contains acceptable contract provisions and includes the non-levelized published rates approved by the Commission in Order No. 29646. We find it reasonable that the submitted Agreement be approved without further notice or procedure. IDAPA 31.01.01.204. We further find it reasonable to allow payments made under the Agreement as prudently incurred expenses for ratemaking purposes.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over Idaho Power Company, an electric utility, pursuant to the authority and power granted it under Title 61 of the Idaho Code and the Public Utility Regulatory Policies Act of 1978 (PURPA).


The Commission has authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed term obligations for the purchase of energy from qualified facilities and to implement FERC rules.

ORDER

In consideration of the foregoing, IT IS HEREBY ORDERED and the Commission does hereby approve the October 11, 2006 Firm Energy Sales Agreement between Idaho Power Company and Magic Wind Park LLC.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 21st
day of December 2006.



PAUL KJELLANDER, PRESIDENT

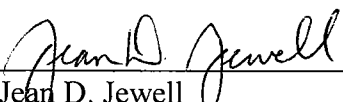


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

b1s/O:IPC-E-06-26_sw

Exhibit 8



RECEIVED
2006 DEC 26 PM 3:32
IDAHO PUBLIC
UTILITIES COMMISSION

Barton L. Kline
Senior Attorney

December 26, 2006

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington Street
P. O. Box 83720
Boise, Idaho 83720-0074

Re: Case No. IPC-E-06-34
In the Matter of the Application of Idaho Power Company for Approval of a Firm Energy Sales Agreement for the Sale and Purchase of Electric Energy Between Idaho Power Company and Hot Springs Windfarm LLC

Dear Ms. Jewell:

Please find enclosed for filing an original and seven (7) copies of Idaho Power Company's Application for the above-referenced matter.

I would appreciate it if you would return a stamped copy of this transmittal letter in the enclosed self-addressed, stamped envelope.

Very truly yours,

Barton L. Kline

BLK:sh
Enclosures

BARTON L. KLINE, ISB # 1526
MONICA B. MOEN, ISB # 5734
Idaho Power Company
1221 West Idaho Street
P. O. Box 70
Boise, Idaho 83707
Telephone: (208) 388-2682
FAX Telephone: (208) 388-6936

RECEIVED
2006 DEC 26 PM 3: 32
IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for Idaho Power Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)
IDAHO POWER COMPANY FOR APPROVAL)
OF A FIRM ENERGY SALES AGREEMENT)
FOR THE SALE AND PURCHASE OF)
ELECTRIC ENERGY BETWEEN IDAHO)
POWER COMPANY AND HOT SPRINGS)
WINDFARM LLC)
_____)

CASE NO. IPC-E-06- 34
APPLICATION

COMES NOW, Idaho Power Company ("Idaho Power" or "the Company") and, pursuant to RP 52, hereby requests that the Commission issue its Order approving a Firm Energy Sales Agreement (the "Agreement") between Idaho Power and Hot Springs Windfarm LLC ("Hot Springs") under which Hot Springs would sell and Idaho Power would purchase electric energy generated by the Hot Springs Windfarm located near Mountain Home in Elmore County, Idaho ("Facility"). A copy of the Agreement is enclosed herewith as Attachment 1.

This Application is based on the following:

I.

In interlocutory Order No. 29839 issued in Case No. IPC-E-05-22, the Commission reduced the size cap for QF wind generation facilities entitled to receive the published avoided cost rates from 10 average megawatts to 100 kW. In Order No. 29839, the Commission also identified several criteria that it would consider to determine whether a particular QF wind generation facility, that had been in the negotiation queue when Order No. 29839 was issued, was sufficiently mature so as to justify “grandfathering” the wind generation facility to entitlement to the published rates.

These criteria are as follows:

- (1) Submittal of a signed power purchase agreement to the utility, or
- (2) Submittal to the utility of a completed Application for Interconnection Study and payment of fee.

In addition to a finding of existence of one or both of the preceding threshold criteria, the QF must also be able to demonstrate other indicia of substantial progress and project maturity, e.g.,

- (1) A wind study demonstrating a viable site for the project,
- (2) A signed contract for wind turbines,
- (3) Arranged financing for the project, and/or
- (4) Related progress on the facility permitting and licensing path.

(Order No. 29839, p. 10, August 4, 2005; final Order No. 29851).

The Commission noted in Order No. 29872 in Case No. IPC-E-05-22, that the degree of substantial progress and project maturity that it would look for is a demonstration that the QF project can be brought on-line in a timely manner and within a reasonable period following contract execution and approval. The Commission stated it would look at the totality of the facts presented.

II.

Following the issuance of reconsideration Order No. 29872, the Commission reviewed several requests from wind QFs for grandfathering status. Of particular import is Commission Order No. 29954, issued January 17, 2006 in Case No. IPC-E-05-35 in which Cassia Wind sought grandfathering status for its two projects (“Cassia Wind Order”). In the Cassia Wind Order the Commission determined that even though, as of the August 4, 2005 cut-off date, Cassia Wind had not completed several important secondary criteria, it would be reasonable for Cassia Wind to receive an exemption from the published rate eligibility cap established in Order No. 29839 *provided* that Cassia Wind was able to demonstrate that it had secured financing and obtained a turbine commitment from John Deere Credit by January 4, 2006.

III.

In this case, the Facility’s developer, Energy Vision, LLC has requested that the Facility be “grandfathered” using the same process the Commission described in the Cassia Wind Order. Based on Idaho Power Company’s review of the information provided by the developer and in light of the procedure the Commission accepted in the Cassia Wind order, Idaho Power has determined that it would be reasonable to grandfather the Facility based on the following:

Primary Criteria:

Prior to August 5, 2005 the developer had tendered a signed FESA to Idaho Power for the Facility. This satisfies one of the two primary criteria for grandfathering.

Secondary Criteria:

As of August 5 2005, the Facility did not have a signed contract for turbines. Idaho Power has reviewed the information provided by the developer and determined that this developer believed that obtaining financing was the highest priority on the critical path to project development and directed its resources to that goal rather than turbine acquisition. As a result, prior to August 4, 2005, the developer had entered into binding commitments to obtain financing. The Company has also confirmed that as of August 4, 2005, the Facility had made substantial progress on the other secondary criteria, except for acquisition of turbines. As in the case of Cassia Wind, the developer has now obtained a firm commitment for turbines for the Facility and filed the necessary applications for interconnection to satisfy the second primary criteria. A copy of Idaho Power's October 31, 2006 letter to the developer confirming satisfaction of the required secondary commitments is attached as Attachment 2.

IV.

Based on the foregoing, on December 20, 2006, Idaho Power and Hot Springs Windfarm LLC entered into a Firm Energy Sales Agreement ("Agreement") pursuant to the terms and conditions of Commission Order No. 29632. Under the terms of that Agreement, Hot Springs elected to contract with Idaho Power for a 20-year term. Hot Springs further elected to contract with the Company using the non-levelized published avoided cost rates as currently established by the Commission for projects that, under normal operating conditions, will not generate more than 10 aMW on a monthly basis.

V.

For the most part the Agreement contains terms and conditions identical to the terms and conditions previously approved by the Commission in other Firm Energy Sales Agreements between Idaho Power and various QFs. However, there are three provisions that the Commission should be aware of in its consideration of this Agreement.

1. In the negotiations of this project, Idaho Power and the Facility agreed that an on-line date of December 2007 is crucial to demonstrate that the project was a viable project in August of 2005. This Agreement contains Delay Damage provisions that require the project pay Idaho Power damages if the Project comes on-line after December 31, 2007. The delay damages will accrue for a period of up to 90 days.
2. The Agreement contains the methodology for computing shortfall energy payments the Commission approved in the Firm Energy Sales Agreement between Idaho Power and Fossil Gulch Wind Park, LLC (Case No. IPC-E-04-19, Order No. 29630) and recently approved for Magic Wind Park in Order No. 30206 issued in case No. IPC-E-06-26. Hot Springs has voluntarily selected the Fossil Gulch Method. Use of the Fossil Gulch Methodology is a negotiated term of the Agreement and is mutually acceptable to Idaho Power and Hot Springs.

3. The Agreement reflects the changes to Idaho Power's Schedule 72 approved in Order No. 30179 issued on November 17, 2006 in Case No. IPC-E-06-18. Consistent with Order No. 30179, the Agreement no longer contains certain provisions covering interconnection issues that had previously been included in firm energy sales agreements. Those provisions are now covered by Schedule 72 and the Uniform Interconnection Agreement that is a part of Schedule 72.

VI.

Hot Springs proposes to design, construct, install, own, operate and maintain an 19.8 MW wind generating facility. The Facility will be a qualified small power production facility under the applicable provisions of the Public Utilities Regulatory Policy Act of 1978 ("PURPA"). The Facility will consist of twelve (12) Vestas wind turbines with individual generator ratings of 1.65 MW for each unit for a total facility generator rating of 19.8 MW. As provided by the Agreement, Hot Springs will be required to provide data on the Facility that Idaho Power will use to confirm that, under normal and/or average conditions, generation from the Facility will not exceed 10 aMW on a monthly basis.

VII.

Hot Springs has selected March 31, 2007 as the Scheduled First Energy Date and December 31, 2007 as the Scheduled Operation Date for the Facility. As the Agreement specifies, once a project requests and is assigned an Operation Date, various terms of the Agreement are activated, primarily the 90%/110% performance

criteria. The Agreement requires that only the monthly variable non-firm price for energy be paid for any energy the Facility delivers to Idaho Power prior to the assignment of an Operation Date for this project.

VII.

Section 24 of the Agreement provides that the Agreement will not become effective until the Commission has approved all of the Agreement's terms and conditions and declared that all payments Idaho Power makes to Hot Springs for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.

IX.

Within this Agreement, various requirements have been placed upon Hot Springs in order for Idaho Power to accept energy deliveries from this project. Idaho Power will confirm that the initial requirements have been completed prior to accepting energy from this Facility. The Company will also monitor the ongoing requirements through the full term of this Agreement. Should the Commission approve this Agreement, Idaho Power intends to consider the Effective Date of the Agreement to be December 20, 2006.

X.

The Agreement, as signed and submitted by the Parties thereto, contains Non-Levelized Published Avoided Cost Rates in conformity with applicable Commission Orders.

XI.

Service of pleadings, exhibits, orders and other documents relating to this proceeding should be served on the following:

Barton L. Kline, Senior Attorney
Monica B. Moen, Attorney II
Idaho Power Company
P.O. Box 70
Boise, Idaho 83707
bkline@idahopower.com
mmoen@idahopower.com

Ric Gale
VP - Pricing and Regulatory
Idaho Power Company
P.O. Box 70
Boise, Idaho 83707
rgale@idahopower.com

NOW, THEREFORE, based on the foregoing, Idaho Power Company hereby requests that the Commission issue its Order:

- (1) Approving the Firm Energy Sales Agreement between Idaho Power Company and Hot Springs without change or condition; and
- (2) Declaring that all payments for purchases of energy under the Firm Energy Sales Agreement between Idaho Power Company and Hot Springs Creek be allowed as prudently incurred expenses for ratemaking purposes.

Respectfully submitted this 26th day of December 2006.



BARTON L. KLINE
Attorney for Idaho Power Company

BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION

CASE NO. IPC-E-06-34

IDAHO POWER COMPANY

ATTACHMENT NO. 1

APPLICATION

Idaho Public Utility Commission Copy

Please return this signed original to Idaho Power.

FIRM ENERGY SALES AGREEMENT
BETWEEN
IDAHO POWER COMPANY
AND
HOT SPRINGS WINDFARM, LLC
TABLE OF CONTENTS

<u>Article</u>	<u>TITLE</u>
1	Definitions
2	No Reliance on Idaho Power
3	Warranties
4	Conditions to Acceptance of Energy
5	Term and Operation Date
6	Purchase and Sale of Net Energy
7	Purchase Price and Method of Payment
8	Environmental Attributes
9	Facility and Interconnection
10	Metering and Telemetry
11	Records
12	Operations
13	Indemnification and Insurance
14	Force Majeure
15	Liability; Dedication
16	Several Obligations
17	Waiver
18	Choice of Laws and Venue
19	Disputes and Default
20	Governmental Authorization
21	Commission Order
22	Successors and Assigns
23	Modification
24	Taxes
25	Notices
26	Additional Terms and Conditions
27	Severability
28	Counterparts
29	Entire Agreement Signatures
	Appendix A
	Appendix B
	Appendix C

FIRM ENERGY SALES AGREEMENT
(10 aMW or Less)

HOT SPRINGS WINDFARM, LLC

Project Number: 21615105

THIS AGREEMENT, entered into on this 20 day of December 2006 between Hot Springs Windfarm, LLC, an Idaho limited liability company (Seller), and IDAHO POWER COMPANY, an Idaho corporation (Idaho Power), hereinafter sometimes referred to collectively as "Parties" or individually as "Party."

WITNESSETH:

WHEREAS, Seller will design, construct, own, maintain and operate an electric generation facility; and

WHEREAS, Seller wishes to sell, and Idaho Power is willing to purchase, firm electric energy produced by the Seller's Facility.

THEREFORE, In consideration of the mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

ARTICLE I: DEFINITIONS

As used in this Agreement and the appendices attached hereto, the following terms shall have the following meanings:

- 1.1 "Base Energy" – Monthly Net Energy less than 110% of the monthly Net Energy Amount as specified in paragraph 6.2 of this Agreement.
- 1.2 "Commission" - The Idaho Public Utilities Commission.
- 1.3 "Contract Year" - The period commencing each calendar year on the same calendar date as the Operation Date and ending 364 days thereafter.
- 1.4 "Delay Liquidated Damages" – Damages payable to Idaho Power as calculated in paragraph 5.3, 5.4, 5.5 and 5.6.
- 1.5 "Delay Period" – All days past the Scheduled Operation Date until the Seller's Facility achieves the Operation Date. This Delay Period shall not exceed 90 days.

- 1.6 “Delay Price” - The current month’s Mid-Columbia Market Energy Cost minus the current month’s Base Energy Price specified in paragraph 7.1 of this Agreement. If this calculation results in a value less than 0, the result of this calculation will be 0.
- 1.7 “Designated Dispatch Facility” - Idaho Power’s Systems Operations Group, or any subsequent group designated by Idaho Power.
- 1.8 “Facility” - That electric generation facility described in Appendix B of this Agreement.
- 1.9 “First Energy Date” - The day commencing at 0001 hours, Mountain Time, following the day that Seller has satisfied the requirements of Article IV and the Seller begins delivering energy to Idaho Power’s system at the Point of Delivery.
- 1.10 “Inadvertent Energy” – Electric energy Seller does not intend to generate. Inadvertent energy is more particularly described in paragraph 7.6 of this Agreement.
- 1.11 “Interconnection Facilities” - All equipment specified in Schedule 72.
- 1.12 “Initial Capacity Determination” – The process by which Idaho Power confirms that under normal or average design conditions the Facility will generate at no more than 10 average MW per month and is therefore eligible to be paid the published rates in accordance with Commission Order No. 29632.
- 1.13 “Losses” – The loss of electrical energy expressed in kilowatt hours (kWh) occurring as a result of the transformation and transmission of energy between the point where the Facility’s energy is metered and the point the Facility’s energy is delivered to the Idaho Power electrical system. The loss calculation formula will be as specified in Appendix B of this Agreement.
- 1.14 “Market Energy Cost” – Eighty-five percent (85%) of the weighted average of the daily on-peak and off-peak Dow Jones Mid-Columbia Index (Dow Jones Mid-C Index) prices for non-firm energy. If the Dow Jones Mid-Columbia Index price is discontinued by the reporting agency, both Parties will mutually agree upon a replacement index, which is similar to the Dow Jones Mid-Columbia Index. The selected replacement index will be consistent with other similar agreements and a commonly used index by the electrical industry.
- 1.15 “Material Breach” – A Default (paragraph 19.2.1) subject to paragraph 19.2.2.

- 1.16 “Maximum Capacity Amount” – The maximum capacity (MW) of the Facility will be as specified in Appendix B of this Agreement.
- 1.17 “Metering Equipment” - All equipment specified in Schedule 72, this Agreement and any additional equipment specified in Appendix B required to measure, record and telemeter power flows between the Seller's electric generation plant and Idaho Power's system.
- 1.18 “Mid- Columbia Market Energy Cost” – The weighted average of the daily on-peak and off-peak Dow Jones Mid-Columbia Index (Dow Jones Mid-C Index) prices for non-firm energy. If the Dow Jones Mid-Columbia Index price is discontinued by the reporting agency, both Parties will mutually agree upon a replacement index, which is similar to the Dow Jones Mid-Columbia Index. The selected replacement index will be consistent with other similar agreements and a commonly used index by the electrical industry.
- 1.19 “Net Energy” – All of the electric energy produced by the Facility, less Station Use, less Losses, expressed in kilowatt hours (kWh). Seller commits to deliver all Net Energy to Idaho Power at the Point of Delivery for the full term of the Agreement. Net Energy does not include Inadvertent Energy.
- 1.20 “Operation Date” – The day commencing at 0001 hours, Mountain Time, following the day that all requirements of paragraph 5.2 have been completed.
- 1.21 “Point of Delivery” – The location specified in Appendix B, where Idaho Power's and the Seller's electrical facilities are interconnected.
- 1.22 “Prudent Electrical Practices” – Those practices, methods and equipment that are commonly and ordinarily used in electrical engineering and operations to operate electric equipment lawfully, safely, dependably, efficiently and economically.
- 1.23 “Scheduled Operation Date” – The date specified in Appendix B when Seller anticipates achieving the Operation Date.
- 1.24 “Schedule 72” – Idaho Power's Tariff No 101, Schedule 72 or its successor schedules as approved by the Commission.
- 1.25 “Season” – The three periods identified in paragraph 6.2.1 of this Agreement.

- 1.26 “Shortfall Energy” – The method Idaho Power and the Seller have agreed to use to estimate and liquidate the damages Idaho Power will incur if the Seller fails to provide the monthly Net Energy Amounts specified in paragraph 6.2 of this Agreement. Computation of the Shortfall Energy is described in paragraph 7.3 of this Agreement.
- 1.27 “Special Facilities” - Additions or alterations of transmission and/or distribution lines and transformers as described in Schedule 72 or Appendix B to safely interconnect the Seller's Facility to the Idaho Power system.
- 1.28 “Station Use” – Electric energy that is used to operate equipment that is auxiliary or otherwise related to the production of electricity by the Facility.
- 1.29 “Surplus Energy” – (1) Net Energy produced by the Seller’s Facility and delivered to the Idaho Power electrical system during the month which exceeds 110% of the monthly Net Energy Amount for the corresponding month specified in paragraph 6.2. or (2) All Net Energy produced by the Seller’s Facility and delivered by the Facility to the Idaho Power electrical system prior to the Operation Date.
- 1.30 “Total Cost of the Facility” - The total cost of structures, equipment and appurtenances.

ARTICLE II: NO RELIANCE ON IDAHO POWER

- 2.1 Seller Independent Investigation - Seller warrants and represents to Idaho Power that in entering into this Agreement and the undertaking by Seller of the obligations set forth herein, Seller has investigated and determined that it is capable of performing hereunder and has not relied upon the advice, experience or expertise of Idaho Power in connection with the transactions contemplated by this Agreement.
- 2.2 Seller Independent Experts - All professionals or experts including, but not limited to, engineers, attorneys or accountants, that Seller may have consulted or relied on in undertaking the transactions contemplated by this Agreement have been solely those of Seller.

ARTICLE III: WARRANTIES

- 3.1 No Warranty by Idaho Power - Any review, acceptance or failure to review Seller's design, specifications, equipment or facilities shall not be an endorsement or a confirmation by Idaho Power and Idaho Power makes no warranties, expressed or implied, regarding any aspect of Seller's design, specifications, equipment or facilities, including, but not limited to, safety, durability, reliability, strength, capacity, adequacy or economic feasibility.
- 3.2 Qualifying Facility Status - Seller warrants that the Facility is a "Qualifying Facility," as that term is used and defined in 18 CFR 292.201 et seq. After initial qualification, Seller will take such steps as may be required to maintain the Facility's Qualifying Facility status during the term of this Agreement and Seller's failure to maintain Qualifying Facility status will be a Material Breach of this Agreement. Idaho Power reserves the right to review the Seller's Qualifying Facility status and associated support and compliance documents at anytime during the term of this Agreement.

ARTICLE IV: CONDITIONS TO ACCEPTANCE OF ENERGY

- 4.1 Prior to the First Energy Date and as a condition of Idaho Power's acceptance of deliveries of energy from the Seller, Seller shall:
- 4.1.1 Submit proof to Idaho Power that all licenses, permits or approvals necessary for Seller's operations have been obtained from applicable federal, state or local authorities, including, but not limited to, evidence of compliance with Subpart B, 18 CFR 292.201 et seq. and a Qualifying Facility certificate.
- 4.1.2 Opinion of Counsel - Submit to Idaho Power an Opinion Letter signed by an attorney admitted to practice and in good standing in the State of Idaho providing an opinion that Seller's licenses, permits and approvals as set forth in paragraph 4.1.1 above are legally and validly issued, are held in the name of the Seller and, based on a reasonable independent review, counsel is of the opinion that Seller is in substantial compliance with said permits as of the date of the Opinion Letter. The Opinion Letter

will be in a form acceptable to Idaho Power and will acknowledge that the attorney rendering the opinion understands that Idaho Power is relying on said opinion. Idaho Power's acceptance of the form will not be unreasonably withheld. The Opinion Letter will be governed by and shall be interpreted in accordance with the legal opinion accord of the American Bar Association Section of Business Law (1991).

- 4.1.3 Initial Capacity Determination - Submit to Idaho Power such data as Idaho Power may reasonably require to perform the Initial Capacity Determination. Such data will include but not be limited to, equipment specifications, prime mover data, resource characteristics, normal and/or average operating design conditions and Station Use data. Upon receipt of this information, Idaho Power will review the provided data and if necessary, request additional data to complete the Initial Capacity Determination within a reasonable time.
- 4.1.4 Engineer's Certifications - Submit an executed Engineer's Certification of Design & Construction Adequacy and an Engineer's Certification of Operations and Maintenance (O&M) Policy as described in Commission Order No. 21690. These certificates will be in the form specified in Appendix C but may be modified to the extent necessary to recognize the different engineering disciplines providing the certificates.
- 4.1.5 Insurance - Submit written proof to Idaho Power of all insurance required in Article XV.
- 4.1.6 Interconnection - Provide written confirmation from Idaho Power's Delivery Business Unit that Seller has satisfied all interconnection requirements.
- 4.1.7 Written Acceptance - Request and obtain written confirmation from Idaho Power that all conditions to acceptance of energy have been fulfilled. Such written confirmation shall be provided within a commercially reasonable time following the Seller's request and will not be unreasonably withheld by Idaho Power.

ARTICLE V: TERM AND OPERATION DATE

- 5.1 Term - Subject to the provisions of paragraph 5.2 below, this Agreement shall become effective

on the date first written and shall continue in full force and effect for a period of twenty (20)

Contract Years from the Operation Date.

5.2 Operation Date - The Operation Date may occur only after the Facility has achieved all of the following:

- a) Achieved the First Energy Date.
- b) Commission approval of this Agreement in a form acceptable to Idaho Power has been received.
- c) Seller has demonstrated to Idaho Power's satisfaction that the Facility is complete and able to provide energy in a consistent, reliable and safe manner.
- d) Seller has requested an Operation Date from Idaho Power in a written format.
- e) Seller has received written confirmation from Idaho Power of the Operation Date.

This confirmation will not be unreasonably withheld by Idaho Power.

5.3 Seller shall cause the Facility to achieve the Operation Date on or before the Scheduled Operation Date. If the Operation Date occurs after the Scheduled Operation Date, Seller shall pay Idaho Power Delay Liquidated Damages. Delay Liquidated Damages will be calculated monthly as follows:

Delay Liquidated Damages are equal to ((Current month's Initial Year Net Energy Amount as specified in paragraph 6.2.1 divided by the number of days in the current month) multiplied by the current months Delay Period) multiplied by the current months Delay Price.

5.4 Delay Liquidated Damages will be calculated for a maximum of ninety (90) days past the Scheduled Operation Date. If Seller fails to achieve the Operation Date within ninety (90) days of the Scheduled Operation Date, Idaho Power may terminate this Agreement.

5.5 Seller shall pay Idaho Power any calculated Delay Liquidated Damages within 7 days of when Idaho Power calculates and presents any Delay Liquidated Damages billings to the Seller. Seller's failure to pay these damages within the specified time will be a Material Breach of this Agreement.

5.6 The Parties agree that the damages Idaho Power would incur due to delay in the Facility achieving the Operation Date on or before the Scheduled Operation Date would be difficult or impossible to predict with certainty, and that the Delay Liquidated Damages are an appropriate approximation of such damages.

ARTICLE VI: PURCHASE AND SALE OF NET ENERGY

6.1 Delivery and Acceptance of Net Energy - Except when either Party's performance is excused as provided herein, Idaho Power will purchase and Seller will sell all of the Net Energy to Idaho Power at the Point of Delivery. All Inadvertent Energy produced by the Facility will also be delivered by the Seller to Idaho Power at the Point of Delivery. At no time will the total amount of Net Energy and/or Inadvertent Energy produced by the Facility and delivered by the Seller to the Point of Delivery exceed the Maximum Capacity Amount.

6.2 Net Energy Amounts - Seller intends to produce and deliver Net Energy in the following monthly amounts:

6.2.1 Initial Year Monthly Net Energy Amounts:

	<u>Month</u>	<u>kWh</u>
Season 1	March	5,333,000
	April	5,333,000
	May	4,556,000
Season 2	July	4,222,000
	August	4,222,000
	November	3,833,000
	December	4,889,000
Season 3	June	5,111,000
	September	4,389,000
	October	4,611,000
	January	3,944,000
	February	5,111,000

6.2.2 Ongoing Monthly Net Energy Amounts - Seller shall initially provide Idaho Power with one year of monthly generation estimates (Initial Year Monthly Net Energy Amounts) and beginning at the end of month nine and every three months thereafter provide Idaho Power with an additional three months of forward generation estimates. This information will be provided to Idaho Power by written notice in accordance with paragraph 25.1, no later than 5:00 PM of the 5th day following the end of the previous month. If the Seller does not provide the Ongoing Monthly Net Energy Amounts in a timely manner, Idaho Power will use the most recent 3 months of the Initial Year Monthly Net Energy Amounts specified in paragraph 6.2.1 for the next 3 months of monthly Net Energy amounts.

6.2.3 Seller's Adjustment of Net Energy Amount –

6.2.3.1 No later than the Operation Date, by written notice given to Idaho Power in accordance with paragraph 25.1, the Seller may revise all of the previously provided Initial Year Monthly Net Energy Amounts.

6.2.3.2 Beginning with the end of the 3rd month after the Operation Date and at the end of every third month thereafter: (1) the Seller may not revise the immediate next three months of previously provided Net Energy Amounts, (2) but by written notice given to Idaho Power in accordance with paragraph 25.1, no later than 5:00 PM of the 5th day following the end of the previous month, the Seller may revise all other previously provided Net Energy Amounts. Failure to provide timely written notice of changed amounts will be deemed to be an election of no change.

6.2.4 Idaho Power Adjustment of Net Energy Amount – If Idaho Power is excused from accepting the Seller's Net Energy as specified in paragraph 12.2.1 or if the Seller declares a Suspension of Energy Deliveries as specified in paragraph 12.3.1 and the Seller's declared Suspension of Energy Deliveries is accepted by Idaho Power, the Net Energy Amount as specified in paragraph 6.2 for the specific month in which the reduction or

suspension under paragraph 12.2.1 or 12.3.1 occurs will be reduced in accordance with the following:

Where:

NEA = Current Month's Net Energy Amount (Paragraph 6.2)

SGU = a.) If Idaho Power is excused from accepting the Seller's Net Energy as specified in paragraph 12.2.1 this value will be equal to the percentage of curtailment as specified by Idaho Power multiplied by the TGU as defined below.

b.) If the Seller declares a Suspension of Energy Deliveries as specified in paragraph 12.3.1 this value will be the sum of the individual generation units size ratings as specified in Appendix B that are impacted by the circumstances causing the Seller to declare a Suspension of Energy Deliveries.

TGU = Sum of all of the individual generator ratings of the generation units at this Facility as specified in Appendix B of this agreement.

RSH = Actual hours the Facility's Net Energy deliveries were either reduced or suspended under paragraph 12.2.1 or 12.3.1

TH = Actual total hours in the current month

Resulting formula being:

$$\text{Adjusted Net Energy Amount} = \text{NEA} - \left(\left(\frac{\text{SGU}}{\text{TGU}} \times \text{NEA} \right) \times \left(\frac{\text{RSH}}{\text{TH}} \right) \right)$$

This Adjusted Net Energy Amount will be used in applicable Surplus Energy and Shortfall Energy calculations for only the specific month in which Idaho Power was excused from accepting the Seller's Net Energy or the Seller declared a Suspension of Energy.

6.3 Unless excused by an event of Force Majeure, Seller's failure to deliver Net Energy in any Contract Year in an amount equal to at least ten percent (10%) of the sum of the Initial Year Net Energy Amounts as specified in paragraph 6.2 shall constitute an event of default.

ARTICLE VII: PURCHASE PRICE AND METHOD OF PAYMENT

7.1 Base Energy Purchase Price – For all Base Energy, Idaho Power will pay the non-levelized energy price in accordance with Commission Order 29646 with seasonalization factors applied:

<u>Year</u>	<u>Season 1 - (73.50 %)</u> <u>Mills/kWh</u>	<u>Season 2 - (120.00 %)</u> <u>Mills/kWh</u>	<u>Season 3 - (100.00 %)</u> <u>Mills/kWh</u>
2006	37.85	61.80	51.50
2007	38.73	63.23	52.69
2008	39.62	64.68	53.90
2009	40.53	66.17	55.14
2010	41.46	67.69	56.41
2011	42.42	69.25	57.71
2012	43.39	70.85	59.04
2013	44.39	72.48	60.40
2014	45.42	74.16	61.80
2015	46.47	75.86	63.22
2016	47.54	77.62	64.68
2017	48.63	79.40	66.17
2018	49.76	81.24	67.70
2019	50.91	83.11	69.26
2020	52.07	85.02	70.85
2021	53.28	86.99	72.49
2022	54.51	88.99	74.16
2023	55.76	91.04	75.87
2024	57.05	93.14	77.62
2025	58.37	95.29	79.41
2026	59.72	97.50	81.25
2027	61.09	99.74	83.12

7.2 Surplus Energy Price - For all Surplus Energy, Idaho Power shall pay to the Seller the current month's Market Energy Cost or the Base Energy Purchase Price specified in paragraph 7.1, whichever is lower.

7.3 Shortfall Energy – If the month's Net Energy is less than 90% of the monthly Net Energy Amount as specified in paragraph 6.2 of this Agreement for the corresponding month, Shortfall Energy will be the difference between 90% of the monthly Net Energy Amount and the same month's actual Net Energy delivered to the Point of Delivery.

7.4 Shortfall Energy Price – For all Shortfall Energy, if the Market Energy Cost for the month in which the Shortfall Energy occurs is less than the Base Energy Purchase Price for the same

month, the Shortfall Energy Price will be 0. If the Market Energy Cost for the month in which the Shortfall Energy occurs is greater than the Base Energy Purchase Price for the same month, the Shortfall Energy Price will be the current month's Market Energy Cost less the Base Energy Purchase Price. If the current month's Market Energy Cost less the Base Energy Purchase Price is greater than 150 percent of the Base Energy Purchase Price, then the Shortfall Energy Price will be 150 percent of the Base Energy Purchase Price.

7.5 Shortfall Energy Payment - The Shortfall Energy Payment amount is the Shortfall Energy amount multiplied by the Shortfall Energy Price. The Shortfall Energy Payment will be withheld from the current month's energy payment. If the current month's energy payment is less than the Shortfall Energy Payment, the Seller will make payment to Idaho Power of the unpaid balance within 15 days of being notified of the outstanding balance. Shortfall Energy Payments are liquidated damages and not penalties. Seller's failure to make payment in full of the Shortfall Energy Payment within the specified time will be a Material Breach of this Agreement.

7.6 Inadvertent Energy –

7.6.1 Inadvertent Energy is electric energy produced by the Facility, expressed in kWh, which the Seller delivers to Idaho Power at the Point of Delivery that exceeds 10,000 kW multiplied by the hours in the specific month in which the energy was delivered. (For example January contains 744 hours. 744 hours times 10,000 kW = 7,440,000 kWh. Energy delivered in January in excess of 7,440, 000 kWh in this example would be Inadvertent Energy.)

7.6.2 Although Seller intends to design and operate the Facility to generate no more than 10 average MW and therefore does not intend to generate Inadvertent Energy, Idaho Power will accept Inadvertent Energy that does not exceed the Maximum Capacity Amount but will not purchase or pay for Inadvertent Energy.

7.7 Payment Due Date – Energy payments to the Seller will be disbursed within 30 days of the date which Idaho Power receives and accepts the documentation of the monthly Net Energy actually delivered to Idaho Power as specified in Appendix A.

- 7.8 Continuing Jurisdiction of the Commission . This Agreement is a special contract and, as such, the rates, terms and conditions contained in this Agreement will be construed in accordance with Idaho Power Company v. Idaho Public Utilities Commission and Afton Energy, Inc., 107 Idaho 781, 693 P.2d 427 (1984), Idaho Power Company v. Idaho Public Utilities Commission, 107 Idaho 1122, 695 P.2d 1 261 (1985), Afton Energy, Inc. v. Idaho Power Company, 111 Idaho 925, 729 P.2d 400 (1986), Section 210 of the Public Utilities Regulatory Policies Act of 1978 and 18 CFR §292.303-308

ARTICLE VIII: ENVIRONMENTAL ATTRIBUTES

- 8.1 Idaho Power waives any claim to ownership of Environmental Attributes. Environmental Attributes include, but are not limited to, Green Tags, Green Certificates, Renewable Energy Credits (RECs) and Tradable Renewable Certificates (TRCs) directly associated with the production of energy from the Seller's Facility.

ARTICLE IX: FACILITY AND INTERCONNECTION

- 9.1 Design of Facility - Seller will design, construct, install, own, operate and maintain the Facility and any Seller-owned Interconnection Facilities so as to allow safe and reliable generation and delivery of Net Energy and Inadvertent Energy to the Idaho Power Point of Delivery for the full term of the Agreement.

ARTICLE X: METERING AND TELEMETRY

- 10.1 Metering and Telemetry - Idaho Power shall, for the account of Seller, provide, install, and maintain Metering Equipment to be located at a mutually agreed upon location to record and measure power flows to Idaho Power in accordance with Schedule 72. The Metering Equipment will be at the location and the type required to measure, record and report the Facility's Net Energy, Station Use, Inadvertent Energy and maximum energy deliveries (kW) in a manner to provide Idaho Power adequate energy measurement data to administer this Agreement and to

integrate this Facility's energy production into the Idaho Power electrical system

ARTICLE XI - RECORDS

- 11.1 Maintenance of Records - Seller shall maintain at the Facility or such other location mutually acceptable to the Parties adequate total generation, Net Energy, Station Use, Inadvertent Energy and maximum generation (kW) records in a form and content recommended by Idaho Power.
- 11.2 Inspection - Either Party, after reasonable notice to the other Party, shall have the right, during normal business hours, to inspect and audit any or all generation, Net Energy, Station Use, Inadvertent Energy and maximum generation (kW) records pertaining to the Seller's Facility.

ARTICLE XII: OPERATIONS

- 12.1 Communications - Idaho Power and the Seller shall maintain appropriate operating communications through Idaho Power's Designated Dispatch Facility in accordance with Appendix A of this Agreement.
- 12.2 Energy Acceptance -
- 12.2.1 Idaho Power shall be excused from accepting and paying for Net Energy or accepting Inadvertent Energy produced by the Facility and delivered by the Seller to the Point of Delivery, if it is prevented from doing so by an event of Force Majeure, or temporary disconnection of the Facility in accordance with Schedule 72. If, for reasons other than an event of Force Majeure, a temporary disconnection under Schedule 72 exceeds twenty (20) days, beginning with the twenty-first day of such interruption, curtailment or reduction, Seller will be deemed to be delivering Net Energy at a rate equivalent to the pro rata daily average of the amounts specified for the applicable month in paragraph 6.2. Idaho Power will notify Seller when the interruption, curtailment or reduction is terminated.
- 12.2.2 If, in the reasonable opinion of Idaho Power, Seller's operation of the Facility or Interconnection Facilities is unsafe or may otherwise adversely affect Idaho Power's

equipment, personnel or service to its customers, Idaho Power may temporarily disconnect the Facility from Idaho Power's transmission / distribution system as specified within Schedule 72 or take such other reasonable steps as Idaho Power deems appropriate.

12.2.3 Under no circumstances will the Seller deliver Net Energy and/or Inadvertent Energy from the Facility to the Point of Delivery in an amount that exceeds the Maximum Capacity Amount. Seller's failure to limit deliveries to the Maximum Capacity Amount will be a Material Breach of this Agreement.

12.3 Seller Declared Suspension of Energy Deliveries

12.3.1 If the Seller's Facility experiences a forced outage due to equipment failure which is not caused by an event of Force Majeure or by neglect, disrepair or lack of adequate preventative maintenance of the Seller's Facility, Seller may, after giving notice as provided in paragraph 12.3.2 below, temporarily suspend all deliveries of Net Energy to Idaho Power from the Facility or from individual generation unit(s) within the Facility impacted by the forced outage for a period of not less than 48 hours to correct the forced outage condition ("Declared Suspension of Energy Deliveries"). The Seller's Declared Suspension of Energy Deliveries will begin at the start of the next full hour following the Seller's telephone notification as specified in paragraph 12.3.2 and will continue for the time as specified (not less than 48 hours) in the written notification provided by the Seller. In the month(s) in which the Declared Suspension of Energy occurred, the Net Energy Amount will be adjusted as specified in paragraph 6.2.4.

12.3.2 If the Seller desires to initiate a Declared Suspension of Energy Deliveries as provided in paragraph 12.3.1, the Seller will notify the Designated Dispatch Facility by telephone. The beginning hour of the Declared Suspension of Energy Deliveries will be at the earliest the next full hour after making telephone contact with Idaho Power. The Seller will, within 24 hours after the telephone contact, provide Idaho Power a written notice in accordance with Article XXVIII that will contain the beginning hour and duration of the

Declared Suspension of Energy Deliveries and a description of the conditions that caused the Seller to initiate a Declared Suspension of Energy Deliveries. Idaho Power will review the documentation provided by the Seller to determine Idaho Power's acceptance of the described forced outage as qualifying for a Declared Suspension of Energy Deliveries as specified in paragraph 12.3.1. Idaho Power's acceptance of the Seller's forced outage as an acceptable forced outage will be based upon the clear documentation provided by the Seller that the forced outage is not due to an event of Force Majeure or by neglect, disrepair or lack of adequate preventative maintenance of the Seller's Facility.

- 12.4 Scheduled Maintenance – On or before January 31 of each calendar year, Seller shall submit a written proposed maintenance schedule of significant Facility maintenance for that calendar year and Idaho Power and Seller shall mutually agree as to the acceptability of the proposed schedule. The Parties' determination as to the acceptability of the Seller's timetable for scheduled maintenance will take into consideration Prudent Electrical Practices, Idaho Power system requirements and the Seller's preferred schedule. Neither Party shall unreasonably withhold acceptance of the proposed maintenance schedule.
- 12.5 Maintenance Coordination - The Seller and Idaho Power shall, to the extent practical, coordinate their respective line and Facility maintenance schedules such that they occur simultaneously.
- 12.6 Contact Prior to Curtailment - Idaho Power will make a reasonable attempt to contact the Seller prior to exercising its rights to interrupt interconnection or curtail deliveries from the Seller's Facility. Seller understands that in the case of emergency circumstances, real time operations of the electrical system, and/or unplanned events Idaho Power may not be able to provide notice to the Seller prior to interruption, curtailment, or reduction of electrical energy deliveries to Idaho Power.

ARTICLE XIII: INDEMNIFICATION AND INSURANCE

- 13.1 Indemnification - Each Party shall agree to hold harmless and to indemnify the other Party, its officers, agents, affiliates, subsidiaries, parent company and employees against all loss, damage,

expense and liability to third persons for injury to or death of person or injury to property, proximately caused by the indemnifying Party's construction, ownership, operation or maintenance of, or by failure of, any of such Party's works or facilities used in connection with this Agreement. The indemnifying Party shall, on the other Party's request, defend any suit asserting a claim covered by this indemnity. The indemnifying Party shall pay all costs, including reasonable attorney fees that may be incurred by the other Party in enforcing this indemnity.

13.2 Insurance - During the term of this Agreement, Seller shall secure and continuously carry the following insurance coverage:

13.2.1 Comprehensive General Liability Insurance for both bodily injury and property damage with limits equal to \$1,000,000, each occurrence, combined single limit. The deductible for such insurance shall be consistent with current Insurance Industry Utility practices for similar property.

13.2.2 The above insurance coverage shall be placed with an insurance company with an A.M. Best Company rating of A- or better and shall include:

- (a) An endorsement naming Idaho Power as an additional insured and loss payee as applicable; and
- (b) A provision stating that such policy shall not be canceled or the limits of liability reduced without sixty (60) days' prior written notice to Idaho Power.

13.3 Seller to Provide Certificate of Insurance - As required in paragraph 4.1.5 herein and annually thereafter, Seller shall furnish Idaho Power a certificate of insurance, together with the endorsements required therein, evidencing the coverage as set forth above.

13.4 Seller to Notify Idaho Power of Loss of Coverage - If the insurance coverage required by paragraph 13.2 shall lapse for any reason, Seller will immediately notify Idaho Power in writing. The notice will advise Idaho Power of the specific reason for the lapse and the steps Seller is taking to reinstate the coverage. Failure to provide this notice and to expeditiously reinstate or replace the coverage will constitute a Material Breach of this Agreement.

ARTICLE XIV: FORCE MAJEURE

14.1 As used in this Agreement, "Force Majeure" or "an event of Force Majeure" means any cause beyond the control of the Seller or of Idaho Power which, despite the exercise of due diligence, such Party is unable to prevent or overcome. Force Majeure includes, but is not limited to, acts of God, fire, flood, storms, wars, hostilities, civil strife, strikes and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, or changes in law or regulation occurring after the Operation Date, which, by the exercise of reasonable foresight such party could not reasonably have been expected to avoid and by the exercise of due diligence, it shall be unable to overcome. If either Party is rendered wholly or in part unable to perform its obligations under this Agreement because of an event of Force Majeure, both Parties shall be excused from whatever performance is affected by the event of Force Majeure, provided that:

- (1) The non-performing Party shall, as soon as is reasonably possible after the occurrence of the Force Majeure, give the other Party written notice describing the particulars of the occurrence.
- (2) The suspension of performance shall be of no greater scope and of no longer duration than is required by the event of Force Majeure.
- (3) No obligations of either Party which arose before the occurrence causing the suspension of performance and which could and should have been fully performed before such occurrence shall be excused as a result of such occurrence.

ARTICLE XV: LIABILITY; DEDICATION

15.1 Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public or affect the status of Idaho Power as an independent public utility corporation or Seller as an independent individual or

entity.

ARTICLE XVI: SEVERAL OBLIGATIONS

16.1 Except where specifically stated in this Agreement to be otherwise, the duties, obligations and liabilities of the Parties are intended to be several and not joint or collective. Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or impose a trust or partnership duty, obligation or liability on or with regard to either Party. Each Party shall be individually and severally liable for its own obligations under this Agreement.

ARTICLE XVII: WAIVER

17.1 Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or other matter.

ARTICLE XVIII: CHOICE OF LAWS AND VENUE

18.1 This Agreement shall be construed and interpreted in accordance with the laws of the State of Idaho without reference to its choice of law provisions.

18.2 Venue for any litigation arising out of or related to this Agreement will lie in the District Court of the Fourth Judicial District of Idaho in and for the County of Ada.

ARTICLE XIX: DISPUTES AND DEFAULT

19.1 Disputes - All disputes related to or arising under this Agreement, including, but not limited to, the interpretation of the terms and conditions of this Agreement, will be submitted to the Commission for resolution.

19.2 Notice of Default -

19.2.1 Defaults. If either Party fails to perform any of the terms or conditions of this Agreement (an "event of default"), the nondefaulting Party shall cause notice in writing to be given to the defaulting Party, specifying the manner in which such

default occurred. If the defaulting Party shall fail to cure such default within the sixty (60) days after service of such notice, or if the defaulting Party reasonably demonstrates to the other Party that the default can be cured within a commercially reasonable time but not within such sixty (60) day period and then fails to diligently pursue such cure, then, the nondefaulting Party may, at its option, terminate this Agreement and/or pursue its legal or equitable remedies.

19.2.2 Material Breaches – The notice and cure provisions in paragraph 19.2.1 do not apply to defaults identified in this Agreement as Material Breaches. Material Breaches must be cured as expeditiously as possible following occurrence of the breach.

19.3 Security for Performance - Prior to the Operation Date and thereafter for the full term of this Agreement, Seller will provide Idaho Power with the following:

19.3.1 Insurance - Evidence of compliance with the provisions of paragraph 13.2. If Seller fails to comply, such failure will be a Material Breach and may only be cured by Seller supplying evidence that the required insurance coverage has been replaced or reinstated;

19.3.2 Engineer's Certifications - Every three (3) years after the Operation Date, Seller will supply Idaho Power with a Certification of Ongoing Operations and Maintenance (O & M) from a Registered Professional Engineer licensed in the State of Idaho, which Certification of Ongoing O & M shall be in the form specified in Appendix C. Seller's failure to supply the required certificate will be an event of default. Such a default may only be cured by Seller providing the required certificate; and

19.3.3 Licenses and Permits - During the full term of this Agreement, Seller shall maintain compliance with all permits and licenses described in paragraph 4.1.1 of this Agreement. In addition, Seller will supply Idaho Power with copies of any new or additional permits or licenses. At least every fifth Contract Year, Seller will update the documentation described in Paragraph 4.1.1. If at any time Seller fails to maintain compliance with the permits and licenses described in paragraph 4.1.1 or to provide

the documentation required by this paragraph, such failure will be an event of default and may only be cured by Seller submitting to Idaho Power evidence of compliance from the permitting agency.

ARTICLE XX: GOVERNMENTAL AUTHORIZATION

- 20.1 This Agreement is subject to the jurisdiction of those governmental agencies having control over either Party of this Agreement.

ARTICLE XXI: COMMISSION ORDER

- 21.1 This Agreement shall become finally effective upon the Commission's approval of all terms and provisions hereof without change or condition and declaration that all payments to be made to Seller hereunder shall be allowed as prudently incurred expenses for ratemaking purposes.

ARTICLE XXII: SUCCESSORS AND ASSIGNS

- 22.1 This Agreement and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties hereto, except that no assignment hereof by either Party shall become effective without the written consent of both Parties being first obtained. Such consent shall not be unreasonably withheld. Notwithstanding the foregoing, any party which Idaho Power may consolidate, or into which it may merge, or to which it may convey or transfer substantially all of its electric utility assets, shall automatically, without further act, and without need of consent or approval by the Seller, succeed to all of Idaho Power's rights, obligations and interests under this Agreement. This article shall not prevent a financing entity with recorded or secured rights from exercising all rights and remedies available to it under law or contract. Idaho Power shall have the right to be notified by the financing entity that it is exercising such rights or remedies.

ARTICLE XXIII: MODIFICATION

23.1 No modification to this Agreement shall be valid unless it is in writing and signed by both Parties and subsequently approved by the Commission.

ARTICLE XXIV: TAXES

24.1 Each Party shall pay before delinquency all taxes and other governmental charges which, if failed to be paid when due, could result in a lien upon the Facility or the Interconnection Facilities.

ARTICLE XXV: NOTICES

25.1 All written notices under this agreement shall be directed as follows and shall be considered delivered when deposited in the U. S. Mail, first-class postage prepaid, as follows:

To Seller: Hot Springs Windfarm, LLC
 Attn: Donald Wong
 3155 East Patrick Lane, Suite 1
 Las Vegas, NV 89120-3481

Courtesy electronic copy to: donw@surewest.net

To Idaho Power:

Original document to:

Vice President, Power Supply
Idaho Power Company
P O Box 70
Boise, Idaho 83707

Copy of document to:

Cogeneration and Small Power Production
Idaho Power Company
P O Box 70
Boise, Idaho 83707

ARTICLE XXVI: ADDITIONAL TERMS AND CONDITIONS

26.1 This Agreement includes the following appendices, which are attached hereto and included by reference:

- Appendix A - Generation Scheduling and Reporting
- Appendix B - Facility and Point of Delivery
- Appendix C - Engineer's Certifications

ARTICLE XXVII: SEVERABILITY

27.1 The invalidity or unenforceability of any term or provision of this Agreement shall not affect the validity or enforceability of any other terms or provisions and this Agreement shall be construed in all other respects as if the invalid or unenforceable term or provision were omitted.

ARTICLE XXVIII: COUNTERPARTS

28.1 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

ARTICLE XXIX: ENTIRE AGREEMENT

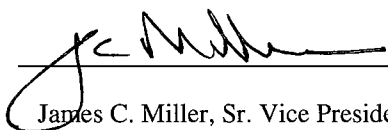
29.1 This Agreement constitutes the entire Agreement of the Parties concerning the subject matter hereof and supersedes all prior or contemporaneous oral or written agreements between the Parties concerning the subject matter hereof.

IN WITNESS WHEREOF, The Parties hereto have caused this Agreement to be executed in their respective names on the dates set forth below:


Idaho Power Company

Hot Springs Windfarm, L.L.C.

By


James C. Miller, Sr. Vice President, Power Supply

By


Glenn Ikemoto, Authorized Manager

Dated

DEC 20, 2006

"Idaho Power"

Dated

12-16-2006

"Seller"

APPENDIX A

A -1 MONTHLY POWER PRODUCTION AND SWITCHING REPORT

At the end of each month the following required documentation will be submitted to:

Idaho Power Company
Attn: Cogeneration and Small Power Production
P O Box 70
Boise, Idaho 83707

The Meter readings required on this report will be the reading on the Idaho Power Meter Equipment measuring the Facility's total energy production, Station Usage, Inadvertent Energy delivered to Idaho Power and the maximum generated energy (kW) as recorded on the Meter Equipment and/or any other required energy measurements to adequately administer this Agreement.

Idaho Power Company

Cogeneration and Small Power Production

MONTHLY POWER PRODUCTION AND SWITCHING REPORT

Month _____

Year _____

Project Name _____

Project Number: _____

Address _____

Phone Number: _____

City _____

State _____

Zip _____

	<u>Facility Output</u>	<u>Station Usage</u>	<u>Station Usage</u>	<u>Metered Maximum Generation</u>
Meter Number: _____	_____	_____	_____	kW
End of Month kWh Meter Reading: _____	_____	_____	_____	
Beginning of Month kWh Meter: _____	_____	_____	_____	
Difference: _____	_____	_____	_____	<u>Net Generation</u>
Times Meter Constant: _____	_____	_____	_____	
kWh for the Month: _____	-	_____	-	
Metered Demand: _____	_____	_____	_____	

Breaker Opening Record

<u>Date</u>	<u>Time</u>	<u>Meter</u>

*	<u>Reason</u>

Breaker Closing Record

<u>Date</u>	<u>Time</u>	<u>Meter</u>

* **Breaker Opening Reason Codes**

- 1 Lack of Adequate Prime Mover
- 2 Forced Outage of Facility
- 3 Disturbance of IPCo System
- 4 Scheduled Maintenance
- 5 Testing of Protection Systems
- 6 Cause Unknown
- 7 Other (Explain)

I hereby certify that the above meter readings are true and correct as of Midnight on the last day of the above month and that the switching record is accurate and complete as required by the Firm Energy Sales Agreement to which I am a Party.

Signature

Date

Idaho Power Contact Information

Daily Energy Production Reporting

Call daily by 10 a.m., 1-800-356-4328 or 1-800-635-1093 and leave the following information:

- Project Identification - Project Name and Project Number
- Current Meter Reading
- Estimated Generation for the current day
- Estimated Generation for the next day

Planned and Unplanned Project outages

Call 1-800-345-1319 and leave the following information:

- Project Identification - Project Name and Project Number
- Approximate time outage occurred
- Estimated day and time of project coming back online

Seller's Contact Information

24-Hour Project Operational Contact

Name: Donald Wong
Telephone Number: 916-791-1959
Cell Phone: 916-791-2250

Project On-site Contact information

Telephone Number: John Steiner - 208-869-7300

APPENDIX B

FACILITY AND POINT OF DELIVERY

PROJECT NO. 21615105

HOT SPRINGS WINDFARM, LLC

B-1 DESCRIPTION OF FACILITY

The Facility will consist of 12 Vestas wind turbines with individual nameplate ratings of 1.65 MW for each unit, for a total Facility nameplate generator rating of 19.8 MW. Seller may substitute at any time prior to the Operation Date, a different manufacturer and/or model wind turbine provided that the aggregate nameplate rating of the Facility does not exceed 20 MW.

B-2 LOCATION OF FACILITY

Near:

Sections: 25, SE Quarter of 26, 34,35, and 36 Township: 4S Range: 8E County: Elmore ID.

Sections: 2 and 3 Township: 5S Range: 8E County: Elmore ID.

B-3 SCHEDULED FIRST ENERGY AND OPERATION DATE

Seller has selected March 31, 2007 as the estimated Scheduled First Energy Date.

Seller has selected December 31, 2007 as the estimated Scheduled Operation Date.

In making these selections, Seller recognizes that adequate testing of the Facility and completion of all requirements in paragraph 5.2 of this Agreement must be completed prior to the project being granted an Operation Date. Idaho Power, based on the information supplied by the Seller, will schedule its construction in accordance with Schedule 72.

B-4 MAXIMUM CAPACITY AMOUNT: This value will be 20 MW which is consistent with the value provided by the Seller to Idaho Power in accordance with Schedule 72. This value is the maximum energy (MW) that potentially could be delivered by the Seller's Facility to the Idaho

Power electrical system at any moment in time.

B-5 POINT OF DELIVERY

“Point of Delivery” means, unless otherwise agreed by both Parties, the point of where the Sellers Facility’s energy is delivered to the Idaho Power electrical system. Schedule 72 will determine the specific Point of Delivery for this Facility. The Point of Delivery identified by Schedule 72 will become an integral part of this Agreement.

B-6 LOSSES

If the Idaho Power Metering equipment is capable of measuring the exact energy deliveries by the Seller to the Idaho Power electrical system at the Point of Delivery, no Losses will be calculated for this Facility. If the Idaho Power Metering is unable to measure the exact energy deliveries by the Seller to the Idaho Power electrical system at the Point of Delivery, a Losses calculation will be established to measure the energy losses (kWh) between the Seller’s Facility and the Idaho Power Point of Delivery. This loss calculation will be initially set at 2% of the kWh energy production recorded on the Facility generation metering equipment. At such time as Seller provides Idaho Power with the electrical equipment specifications (transformer loss specifications, conductor sizes, etc) of all of the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power will configure a revised loss calculation formula to be agreed to by both parties and used to calculate the kWh Losses for the remaining term of the Agreement. If at anytime during the term of this Agreement, Idaho Power determines that the loss calculation does not correctly reflect the actual kWh losses attributed to the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power may adjust the calculation and retroactively adjust the previous months kWh loss calculations.

B-7 METERING AND TELEMETRY

Schedule 72 will determine the specific metering and telemetry requirements for this Facility. At

the minimum the Metering Equipment and Telemetry equipment must be able to provide and record hourly energy deliveries to the Point of Delivery and any other energy measurements required to administer this Agreement. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. Seller will arrange for and make available at Seller's cost communication circuit(s) compatible to Idaho Power's communications equipment and dedicated to Idaho Power's use terminating at the Idaho Power facilities capable of providing Idaho Power with continuous instantaneous information on the Facilities energy production. Idaho Power provided equipment will be owned and maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total metering cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

APPENDIX C

ENGINEER'S CERTIFICATION
OF
OPERATIONS & MAINTENANCE POLICY

The undersigned _____, on behalf of himself and _____, hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter "Agreement," between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as IPCo Facility No. _____ and is hereinafter referred to as the "Project."
4. That the Project, which is commonly known as the _____ Project, is located in Section _____ Township _____ Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a twenty (20) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has reviewed and/or supervised the review of the Policy for Operation and Maintenance ("O&M") for this Project and it is his professional opinion that, provided said Project has been designed and built to appropriate standards, adherence to said O&M Policy will result in the Project's producing at or near the design electrical output, efficiency and plant factor for a twenty (20) year period.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.
10. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____

(P.E. Stamp)

Date _____

APPENDIX C

ENGINEER'S CERTIFICATION
OF
ONGOING OPERATIONS AND MAINTENANCE

The undersigned _____, on behalf of himself and _____ hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter "Agreement," between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as IPCo Facility No. _____ and hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the _____ Project, is located in Section _____ Township _____ Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a twenty (20) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has made a physical inspection of said Project, its operations and maintenance records since the last previous certified inspection. It is Engineer's professional opinion, based on the Project's appearance, that its ongoing O&M has been substantially in accordance with said O&M Policy; that it is in reasonably good operating condition; and that if adherence to said O&M Policy continues, the Project will continue producing at or near its design electrical output, efficiency and plant factor for the remaining _____ years of the Agreement.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.

10. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____

(P.E. Stamp)

Date _____

APPENDIX C
ENGINEER'S CERTIFICATION
OF
DESIGN & CONSTRUCTION ADEQUACY

The undersigned _____, on behalf of himself and _____, hereinafter collectively referred to as "Engineer", hereby states and certifies to Idaho Power as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Firm Energy Sales Agreement, hereinafter "Agreement", between Idaho Power as Buyer, and _____ as Seller, dated _____, _____.
3. That the cogeneration or small power production project, which is the subject of the Agreement and this Statement, is identified as IPCo Facility No _____ and is hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the _____ Project, is located in Section _____ Township _____ Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a _____ (____) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project and has made the analysis of the plans and specifications independently.
8. That Engineer has reviewed the engineering design and construction of the Project, including the civil work, electrical work, generating equipment, prime mover conveyance system, Seller furnished Interconnection Facilities and other Project facilities and equipment.
9. That the Project has been constructed in accordance with said plans and specifications, all

applicable codes and consistent with Prudent Electrical Practices as that term is described in the Agreement.

10. That the design and construction of the Project is such that with reasonable and prudent operation and maintenance practices by Seller, the Project is capable of performing in accordance with the terms of the Agreement and with Prudent Electrical Practices for a _____ (_____) year period.

11. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, in interconnecting the Project with its system, is relying on Engineer's representations and opinions contained in this Statement.

12. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____
(P.E. Stamp)

Date _____

BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION

CASE NO. IPC-E-06-34

IDAHO POWER COMPANY

ATTACHMENT NO. 2

APPLICATION



An IDACORP Company

Randy C. Allphin
Contract Administrator

October 31, 2006

Energy Vision LLC
Glenn Ikemoto
672 Blair Avenue
Piedmont, CA 94611

E-mail Copy: Glenn Ikemoto - glennI@pacbell.net
Joe Miller - joe@mcdevitt-miller.com

Original: US Mail

RE: **Bennett Creek Wind Farm and Hot Springs Wind Farm**
Entitlement to Published Avoided Cost Rates.

Dear Mr. Ikemoto:

As specified and agreed to in the letter agreement between Idaho Power and Energy Vision LLC, dated September 27, 2006, there were various requirements that Energy Vision LLC needed to complete in order for Idaho Power to provide Firm Energy Agreements for these projects. Summarized below are these requirements and the status as of the date of this letter.

1.) IPUC approval required –

Upon execution of final agreements for these projects by both parties, Idaho Power will file the agreements with the IPUC seeking their approval. Only after IPUC approval has been received as specified in the agreements shall the agreements be considered effective and binding on both parties.

2.) By October 31, 2006

a.) Wind Turbine Supply

b.) Financing Secured

Energy Vision has forwarded to Idaho Power Company a letter from John Deere in which John Deere has committed to provide both turbines and financing for these projects.

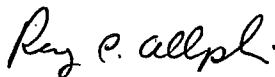
c.) Interconnection

Energy Vision has provided a copy of a cover letter sent to the Idaho Power interconnection group which indicates that interconnection applications have been made. In addition, the Idaho Power interconnection personnel have confirmed that the applications submitted are complete.

As of the date of this letter, Idaho Power confirms that all items required to be completed by October 31, 2006 have been satisfied. Energy Vision has recently submitted a proposed draft agreement to Idaho Power, Idaho Power will review this proposed draft agreement and include the appropriate revisions within a draft firm energy sales agreement for Energy Vision's review.

If you have any questions please contact me at your convenience.

Very truly yours,



Randy C. Allphin
Idaho Power Company
Contract Administrator

CC: Mark Stokes (IPCo)
Bart Kline (IPCo)
Rick Sterling (IPUC)
Scott Woodbury (IPUC)

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR) CASE NO. IPC-E-06-34
APPROVAL OF A FIRM ENERGY SALES)
AGREEMENT FOR THE SALE AND)
PURCHASE OF ELECTRIC ENERGY)
BETWEEN IDAHO POWER COMPANY) ORDER NO. 30246
AND HOT SPRINGS WINDFARM LLC)**

On December 26, 2006, Idaho Power Company (Idaho Power; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting approval of a 20-year Firm Energy Sales Agreement (Agreement) dated December 20, 2006 with Hot Springs Windfarm LLC (Hot Springs). The Commission in this Order approves the submitted Agreement.

Background

On August 4, 2005, the Idaho Public Utilities Commission (Commission) in Case No. IPC-E-05-22, Interlocutory Order No. 29839, reduced the eligibility cap for avoided cost published rates for non-firm wind projects from 10 aMW to 100 kW, required individual negotiation for larger wind qualifying facilities (QFs), and established criteria for assessing QF contract entitlement. Reference Public Utility Regulatory Policies Act of 1978 (PURPA). By Commission Order No. 29872 the date for grandfathering eligibility was changed from July 1, 2004, the Notice of Petition date, to August 4, 2005, the date of Order No. 29839.

In Order No. 29839, the Commission also identified several criteria that it would consider to determine whether a particular QF wind generation facility, which had been in the negotiation queue when Order No. 29839 was issued, was sufficiently mature so as to justify "grandfathering" the wind generation facility to entitlement to the published rates. These criteria are as follows:

- (1) Submittal of a signed power purchase agreement to the utility, or
- (2) Submittal to the utility of completed Application for Interconnection Study and payment of fee.

In addition to a finding of existence of one or both of the preceding threshold criteria, the QF must also be able to demonstrate other indicia of substantial progress and project maturity, e.g.,

- (1) A wind study demonstrating a viable site for the project,
- (2) A signed contract for wind turbines,
- (3) Arranged financing for the project, and/or
- (4) Related progress on the facility permitting and licensing path.

(Order No. 29839, p. 10, August 4, 2005; final Order No. 29851.)

Agreement

The proposed Hot Springs Windfarm will be located within Sections 25, SE ¼ 26, 34, 35, and 36, Township 4 S, and Sections 2 and 3, Township 5 S, Range 8 E, Boise Meridian, Elmore County, Idaho. Hot Springs warrants the facility will be a qualified small power production facility (QF) under the applicable provisions of PURPA. Agreement ¶ 3.2. The QF facility will consist of 12 Vestas wind turbines with individual nameplate ratings of 1.65 MW for each unit, for a total facility nameplate generator rating of 19.8 MW. Agreement Appendix B-1. The Agreement contains the non-levelized, published avoided cost rates set forth in Order No. 29646 with seasonalization factors applied. Agreement ¶ 7.1. Under normal and/or average operating conditions, the QF will not generate more than 10 aMW on a monthly basis. Energy delivered in excess of this monthly amount is Inadvertent Energy. Idaho Power will accept Inadvertent Energy that does not exceed the Maximum Capacity Amount (20 MW) but will not purchase or pay for Inadvertent Energy. Agreement ¶ 7.6.

Based on Idaho Power Company's review of the information provided by the developer of the project, Idaho Windfarms LLC, and in light of the procedure the Commission accepted in Cassia Wind Order No. 29954, Case No. IPC-E-05-35, Idaho Power has determined that it would be reasonable to grandfather the Hot Springs facility based on satisfaction of the following criteria identified by the Commission in Order No. 29839, Case No. IPC-E-05-22.

Primary criteria:

Prior to August 5, 2005, the developer had tendered a signed Firm Energy Sales Agreement to Idaho Power for the facility. This satisfies one of the two primary criteria for grandfathering.

Secondary criteria:

As of August 5, 2005, the facility did not have a signed contract for turbines. Idaho Power has reviewed the information provided by the developer and determined that this developer believed that obtaining financing was the highest priority on the critical path to project development and directed its resources to that goal rather than turbine acquisition. As a result, prior to August 4, 2005, the developer had entered into a binding commitment to obtain financing. The Company has also confirmed that as of August 4, 2005, the facility had made substantial progress on the other secondary criteria, except for acquisition of turbines. As in the case of Cassia Wind, the developer has now obtained a firm commitment for turbines for the facility and filed the necessary applications for interconnection to satisfy the second primary criteria.

Idaho Power notes that there are three contract provisions the Commission should be aware of in its consideration of the Agreement:

1. In the contract negotiations, Idaho Power and Hot Springs agreed that an on-line date of December 2007 is crucial to demonstrate that the project was a viable project in August of 2005. This Agreement contains delay damage provisions that require the project to pay Idaho Power damages if the project comes on-line after December 31, 2007. The delay damages will accrue for a period of up to 90 days. Agreement ¶¶ 5.3 to 5.6.
2. The Agreement contains the methodology for computing shortfall energy payments the Commission approved in the Firm Energy Sales Agreement between Idaho Power and Fossil Gulch Wind Park, LLC (Case No. IPC-E-04-19, Order No. 29630) and recently approved for Magic Wind Park in Order No. 30206 issued in Case No. IPC-E-06-26. Hot Springs has voluntarily selected the Fossil Gulch Method. Use of the Fossil Gulch methodology is a negotiated term of the Agreement and is mutually acceptable to Idaho Power and Hot Springs. Agreement ¶ 7.3.
3. The Agreement reflects the changes to Idaho Power's Schedule 72 [Uniform Interconnection Agreement] approved in Order No. 30179 issued on November 17, 2006 in Case No. IPC-E-06-18. Agreement ¶ 4.1.6.

Hot Springs has selected March 31, 2007 as the estimated Scheduled First Energy Date and December 31, 2007 as the estimated Scheduled Operation Date. Agreement, Appendix B-3.

Section 21.1 of the Agreement provides that the Agreement will not become effective until the Commission has approved all of the Agreement terms and conditions and declared that

all payments Idaho Power makes to Hot Springs for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.

On January 4, 2007, the Commission issued Notices of Application and Modified Procedure in Case No. IPC-E-06-35. The deadline for filing comments was January 26, 2007. Comments were filed by numerous proponents of renewable energy and by the Commission Staff. Reply comments were filed on February 5, 2007 by Idaho Windfarms LLC, the developer of Hot Springs and on February 6, 2007 by Idaho Power. Sur-reply comments were filed by Idaho Windfarms on February 8, 2007.

Staff Comments

Grandfathering

Based on Staff's review of the information provided with regard to the primary and secondary grandfathering criteria, Staff agrees with Idaho Power that the Hot Springs facility should be grandfathered.

Staff also comments on three provisions of the Agreement that distinguish it from other recent PURPA agreements.

On-Line Delay Damages

In their contract negotiations, Idaho Power and Hot Springs agreed that an on-line date of December 2007 is crucial to demonstrate that the project was a viable project in August of 2005. The Agreement contains delay damage provisions that require the project to pay Idaho Power damages if the project comes on-line after December 31, 2007. The delay damages will accrue for a period of up to 90 days. Staff supports this contract provision. Staff notes that at least six recent QF projects have failed to meet their contractual on-line dates; therefore, Staff believes it is reasonable for Idaho Power to begin inserting damage provisions into PURPA contracts to provide a mechanism for the Company to be made whole if it incurs higher costs to acquire replacement power.

Shortfall Energy Payments

The Agreement contains the Fossil Gulch methodology for computing shortfall energy payments. Reference Agreement ¶ 7.3; Case No. IPC-E-04-19, Order No. 29630. The Fossil Gulch method was recently approved by the Commission for Magic Wind Park in Order No. 30206, Case No. IPC-E-06-26. Use of the Fossil Gulch methodology is a negotiated term of

the Agreement and is mutually acceptable to Idaho Power and Hot Springs. Staff believes that both the Fossil Gulch method (Order No. 29630) and the U.S. Geothermal method (Order No. 29632) are acceptable alternatives for computing shortfall energy payments and has no objection to developers choosing their preferred method.

Separate Interconnection Agreement

The Agreement reflects the changes to Idaho Power's Schedule 72 approved in Order No. 30179 issued on November 17, 2006 in Case No. IPC-E-06-18. One of the significant changes in Schedule 72 was the creation of a standard interconnection agreement (Uniform Interconnection Agreement) that is separate from the power sales agreement. Hot Springs has yet to sign an interconnection agreement. Staff recognizes that a QF may have good reason to pursue each agreement separately, even consecutively. In response to Staff production requests, Idaho Power states that it has no reason to believe that a Uniform Interconnection Agreement will not be signed for the project, and further, that if there are no cluster or queue issues that arise requiring additional studies, it is anticipated that a Uniform Interconnection Agreement could be signed by year end 2007. (December 31, 2007 is the Scheduled Operation Date for the project.) The risk to this approach, Staff contends, must remain with the project developer.

The published avoided cost rates contained in the Agreement, Staff believes, are based on an assumption that firm transmission would be available to deliver a project's output without additional Company investment. Consequently, Staff believes that firm transmission capacity is a prerequisite in order for a project's output to be deliverable on a firm basis. As long as Hot Springs requests firm transmission and agrees to appropriate terms subsequently established for making any required transmission upgrade, the Firm Energy Sales Agreement, Staff believes, can stand unaffected. However, should the project request non-firm transmission, Staff submits that the power product that it delivers must also be considered non-firm. Staff cannot support payment of the full published avoided cost rates contained in the Agreement unless the project acquires firm transmission. Conversely, Staff suggests that some downward adjustment to the contract rates could be warranted if non-firm transmission service is requested. Staff believes that the energy product delivered by Hot Springs and the price ultimately paid for that product is necessarily determined by both the terms in the power purchase agreement and the interconnection agreement.

Staff recommends approval of the terms and conditions of the Agreement. However, Staff recommends that Commission approval of the Agreement be contingent upon the QF requesting firm transmission service and agreeing to participate in funding any necessary transmission upgrade. Should the QF request non-firm transmission service and decline to participate in funding any transmission upgrades, Staff recommends that the Commission reserve the ability to adjust the rates contained in the Agreement to fairly account for the reduced firmness of the energy delivered or any additional transmission cost incurred by Idaho Power.

Reply Comments – Idaho Windfarms LLC

Idaho Windfarms LLC on behalf of its affiliate Hot Springs disagrees with Staff's recommended inclusion of conditions related to transmission services. While Idaho Windfarms recognizes the implicit linkage between avoided cost calculations and firm transmission services, it contends that this is not the proper proceeding to deal with transmission-related issues. Idaho Windfarms' objection is based on the following:

- A record for transmission related decisions has not been developed.
- A decision on such issues is not currently required.
- Adding transmission considerations now is inconsistent with grandfathering.

Idaho Windfarms states it is aware that most of the PURPA wind projects with approved power purchase agreements are currently negotiating their interconnection arrangements. This process, it contends, has been complicated by a lack of existing policies related to the cost responsibilities associated with system upgrades and many complex issues, such as:

- The lack of explicit system upgrade costs in the current avoided cost calculation.
- The FERC requirement for reimbursement of system upgrade costs which produce network benefits.
- The quantification of network benefits.
- The reasonableness of the load and resource scenario used in the N-1 study.
- The reasonableness of the system upgrade plan.
- The appropriateness of various full or partial funding and reimbursement mechanisms.

The above issues, it states, are presently being addressed through discussions and negotiations between the parties. Idaho Windfarms contends that Hot Springs is not in the transmission

constrained area near Twin Falls. Some of the issues faced by the other projects will, however, it contends, impact Idaho Windfarms' transmission negotiations. Idaho Windfarms states that there has been no information placed in the record of this proceeding which would allow for an informed Commission decision on any of these matters.

Regardless of the manner in which the issues noted above are resolved with regard to the project, Idaho Windfarms contends that they will almost certainly be brought to the Commission for approval. That, it states, will be the appropriate time to make decisions related to transmission services and to establish the Commission's policies on these matters.

The Hot Springs project, Idaho Windfarms contends, has requested firm transmission service. The completed Transmission Feasibility Studies have preliminarily identified the costs associated with such service. Idaho Windfarms contends that there is no reason, in the context of this case, to assume the project and Idaho Power will fail to achieve an appropriate agreement regarding transmission cost responsibility. Nor, it contends, is there any reason in this proceeding to predetermine the substance of, or limits on, the interconnection agreements. Idaho Windfarms believes that transmission service consistent with Idaho's avoided cost calculation is achievable, but it is too early to determine the form the interconnection agreements will take. Idaho Windfarms contends that it is unfair to force it to accept restrictions which have not been applied to the rest of the PURPA projects. That, it states, would be unreasonably prejudicial to Idaho Windfarms' upcoming interconnection negotiations. Idaho Windfarms' projects, it states, should have the same rights and obligations that are ultimately applied to the other PURPA projects.

Staff comments, Idaho Windfarms notes, correctly state that the Hot Springs project is one of the first to separate transmission service and power purchasing obligations, in compliance with Commission Order No. 30179. Those changes, however, it states, were essentially ministerial and did not address any of the issues related to firm transmission services and cost responsibility. Those changes, it states, do not provide a basis for restricting the project's transmission options before the establishment of the Commission's ultimate transmission policies.

Reply Comments – Idaho Power

The avoided costs contained in the Agreement, Idaho Power contends, were established on the assumption that the costs Idaho Power can avoid by purchasing firm energy

from Hot Springs are financially equivalent to the fixed and variable costs of a firm, dispatchable, combined cycle combustion turbine owned and operated by Idaho Power.

At this time, Idaho Power states it has no reason to believe that the Hot Springs project will not acquire firm transmission to allow deliveries of firm energy to Idaho Power. Idaho Power states it does not know what system upgrade costs, if any, the project may be asked to pay so that delivery can provide firm transmission and the project can deliver firm energy to Idaho Power. Finally, it states there is no indication that the project intends to do anything differently than what it has contractually committed to do – that is, deliver firm energy to Idaho Power.

All that being said, Idaho Power states it is in full agreement with Staff's comments that the project is not entitled to be paid the published avoided cost rates contained in the Agreement unless the project contracts for firm transmission service to be provided for the full 20-year term of the Agreement.

Idaho Power recommends that the Commission include findings in its Order confirming that the published avoided cost rates are available only to QFs that obtain firm transmission for the full term of the firm energy sales agreements. The Order, it states, should also provide that the requirement to obtain firm transmission would not preclude a QF from seeking lower cost firm transmission service. Finally, it contends that the Order should provide that after the project has entered into a transmission arrangement, then Idaho Power or Staff can ask the Commission to review the transmission arrangements to confirm that the rates contained in the Agreement are appropriate based on the type of transmission the project has acquired.

Commission Findings

The Commission has reviewed and considered the filings of record in Case No. IPC-E-06-34, including the underlying Agreement, the filed comments and recommendations of the public and Commission Staff, the reply and sur-reply comments of Idaho Windfarms LLC and the reply comments of Idaho Power. Based on our review of the developed record, we continue to find that the public interest does not require a hearing to consider the issues presented in this case and that Modified Procedure is appropriate. IDAPA 31.01.01.204.

A Firm Energy Sales Agreement for the Hot Springs Windfarm has been presented for Commission approval. Idaho Power contends and Staff agrees that the project is entitled to grandfathered treatment and exemption from the Commission's Order reducing the eligibility

cap for avoided costs published rates for non-firm wind projects from 10 aMW to 100 kW. Based on the developed record, the Commission agrees that grandfathering is appropriate and that the project satisfies the grandfathering eligibility criteria established in Order Nos. 29839 and 29872 in Case No. IPC-E-05-22.

The Agreement is for a 19.8 MW wind project located in Elmore County. As represented and pursuant to contract, under normal and/or average conditions the generation from Hot Springs will not exceed 10 aMW on a monthly basis. We thus find the project is qualified to receive the published avoided cost rates approved by the Commission. The Commission finds the Agreement submitted in this case contains acceptable contract terms and includes the non-levelized published rates approved by the Commission in Order No. 29646. We further find it reasonable to allow payments made under the Agreement as prudently incurred expenses for ratemaking purposes.

We note that the Hot Springs project has yet to sign an interconnection agreement. In our approval of separate agreements for power purchase and interconnection in Order No. 30179, we recognized the functional separation between power supply and delivery mandated by FERC. Interconnection is managed by Idaho Power's Power Delivery (Transmission) business unit, while power purchase agreements fall within the purview of Idaho Power's Power Supply (Marketing) business unit. In our Order at page 4 we stated "It does not appear requiring two separate agreements will make it any more burdensome for non-utility generators to develop projects." We have no reason to question this expectation.

Staff contends that the published firm rates presume that the energy will be delivered on a firm basis. Should firm transmission capacity not be requested by the QF or should the QF decline to participate in the funding of necessary transmission upgrades, Staff contends that the rates should be adjusted downward. Idaho Power is in general agreement with Staff and believes that the Order should not be silent on this issue. Idaho Windfarms contends that the Hot Springs project has requested firm transmission service, and that there is no reason, in the context of this case, to assume that the project and Idaho Power will fail to achieve an appropriate agreement regarding transmission cost responsibility. Idaho Windfarms contends further that the developed record in these cases provides no basis for establishing conditions to its generation agreements related to transmission services. The Commission agrees with Idaho Windfarms and finds it

reasonable to approve the Hot Springs Agreement without conditions related to transmission service.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over Idaho Power Company, an electric utility, and the issues raised in Case No. IPC-E-06-34 pursuant to the authority and power granted it under Title 61 of the Idaho Code and the Public Utility Regulatory Policies Act of 1978 (PURPA).

The Commission has authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed term obligations for the purchase of energy from qualified facilities (QFs) and to implement FERC rules.

ORDER

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED and the Commission does hereby approve the December 20, 2006 Firm Energy Sales Agreement between Idaho Power Company and Hot Springs Windfarm LLC.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 20th
day of February 2007.



PAUL KJELLANDER, PRESIDENT

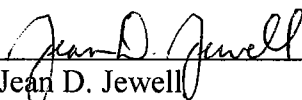


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

bls/O:IPC-E-06-34_sw

Exhibit 9



RECEIVED
2006 DEC 26 PM 3:33
IDAHO PUBLIC
UTILITIES COMMISSION

Barton L. Kline
Senior Attorney

December 26, 2006

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington Street
P. O. Box 83720
Boise, Idaho 83720-0074

Re: Case No. IPC-E-06-35
In the Matter of the Application of Idaho Power Company for Approval of a
Firm Energy Sales Agreement for the Sale and Purchase of Electric
Energy Between Idaho Power Company and Bennett Creek Windfarm
LLC

Dear Ms. Jewell:

Please find enclosed for filing an original and seven (7) copies of Idaho Power Company's Application for the above-referenced matter.

I would appreciate it if you would return a stamped copy of this transmittal letter in the enclosed self-addressed, stamped envelope.

Very truly yours,

Barton L. Kline

BLK:sh
Enclosures

BARTON L. KLINE, ISB # 1526
MONICA B. MOEN, ISB # 5734
Idaho Power Company
1221 West Idaho Street
P. O. Box 70
Boise, Idaho 83707
Telephone: (208) 388-2682
FAX Telephone: (208) 388-6936

Attorneys for Idaho Power Company

RECEIVED
2006 DEC 26 PM 3: 33
IDAHO PUBLIC
UTILITIES COMMISSION

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)
IDAHO POWER COMPANY FOR APPROVAL)
OF A FIRM ENERGY SALES AGREEMENT)
FOR THE SALE AND PURCHASE OF)
ELECTRIC ENERGY BETWEEN IDAHO)
POWER COMPANY AND BENNETT CREEK)
WINDFARM LLC)
_____)

CASE NO. IPC-E-06-35
APPLICATION

COMES NOW, Idaho Power Company ("Idaho Power" or "the Company") and, pursuant to RP 52, hereby requests that the Commission issue its Order approving a Firm Energy Sales Agreement (the "Agreement") between Idaho Power and Bennett Creek Windfarm LLC ("Bennett Creek") under which Bennett Creek would sell and Idaho Power would purchase electric energy generated by the Bennett Creek Windfarm located near Mountain Home in Elmore County, Idaho ("Facility"). A copy of the Agreement is enclosed herewith as Attachment 1.

This Application is based on the following:

I.

In interlocutory Order No. 29839 issued in Case No. IPC-E-05-22, the Commission reduced the size cap for QF wind generation facilities entitled to receive the published avoided cost rates from 10 average megawatts to 100 kW. In Order No. 29839, the Commission also identified several criteria that it would consider to determine whether a particular QF wind generation facility, that had been in the negotiation queue when Order No. 29839 was issued, was sufficiently mature so as to justify “grandfathering” the wind generation facility to entitlement to the published rates.

These criteria are as follows:

- (1) Submittal of a signed power purchase agreement to the utility, or
- (2) Submittal to the utility of a completed Application for Interconnection Study and payment of fee.

In addition to a finding of existence of one or both of the preceding threshold criteria, the QF must also be able to demonstrate other indicia of substantial progress and project maturity, e.g.,

- (1) A wind study demonstrating a viable site for the project,
- (2) A signed contract for wind turbines,
- (3) Arranged financing for the project, and/or
- (4) Related progress on the facility permitting and licensing path.

(Order No. 29839, p. 10, August 4, 2005; final Order No. 29851).

The Commission noted in Order No. 29872 in Case No. IPC-E-05-22, that the degree of substantial progress and project maturity that it would look for is a demonstration that the QF project can be brought on-line in a timely manner and within a reasonable period following contract execution and approval. The Commission stated it would look at the totality of the facts presented.

II.

Following the issuance of reconsideration Order No. 29872, the Commission reviewed several requests from wind QFs for grandfathering status. Of particular import is Commission Order No. 29954, issued January 17, 2006 in Case No. IPC-E-05-35 in which Cassia Wind sought grandfathering status for its two projects (“Cassia Wind Order”). In the Cassia Wind Order the Commission determined that even though, as of the August 4, 2005 cut-off date, Cassia Wind had not completed several important secondary criteria, it would be reasonable for Cassia Wind to receive an exemption from the published rate eligibility cap established in Order No. 29839 *provided* that Cassia Wind was able to demonstrate that it had secured financing and obtained a turbine commitment from John Deere Credit by January 4, 2006.

III.

In this case, the Facility’s developer, Energy Vision, LLC has requested that the Facility be “grandfathered” using the same process the Commission described in the Cassia Wind Order. Based on Idaho Power Company’s review of the information provided by the developer and in light of the procedure the Commission accepted in the Cassia Wind order, Idaho Power has determined that it would be reasonable to grandfather the Facility based on the following:

Primary Criteria:

Prior to August 5, 2005 the developer had tendered a signed FESA to Idaho Power for the Facility. This satisfies one of the two primary criteria for grandfathering.

Secondary Criteria:

As of August 5 2005, the Facility did not have a signed contract for turbines. Idaho Power has reviewed the information provided by the developer and determined that this developer believed that obtaining financing was the highest priority on the critical path to project development and directed its resources to that goal rather than turbine acquisition. As a result, prior to August 4, 2005, the developer had entered into binding commitments to obtain financing. The Company has also confirmed that as of August 4, 2005, the Facility had made substantial progress on the other secondary criteria, except for acquisition of turbines. As in the case of Cassia Wind, the developer has now obtained a firm commitment for turbines for the Facility and filed the necessary applications for interconnection to satisfy the second primary criteria. A copy of Idaho Power's October 31, 2006 letter to the developer confirming satisfaction of the required secondary commitments is attached as Attachment 2.

IV.

Based on the foregoing, on December 20, 2006, Idaho Power and Bennett Creek LLC entered into a Firm Energy Sales Agreement ("Agreement") pursuant to the terms and conditions of Commission Order No. 29632. Under the terms of that Agreement, Bennett Creek elected to contract with Idaho Power for a 20-year term. Bennett Creek further elected to contract with the Company using the non-levelized published avoided cost rates as currently established by the Commission for projects that, under normal operating conditions, will not generate more than 10 aMW on a monthly basis.

V.

For the most part the Agreement contains terms and conditions identical to the terms and conditions previously approved by the Commission in other Firm Energy Sales Agreements between Idaho Power and various QFs. However, there are three provisions that the Commission should be aware of in its consideration of this Agreement.

1. In the negotiations of this project, Idaho Power and the Facility agreed that an on-line date of December 2007 is crucial to demonstrate that the project was a viable project in August of 2005. This Agreement contains Delay Damage provisions that require the project pay Idaho Power damages if the Project comes on-line after December 31, 2007. The delay damages will accrue for a period of up to 90 days.
2. The Agreement contains the methodology for computing shortfall energy payments the Commission approved in the Firm Energy Sales Agreement between Idaho Power and Fossil Gulch Wind Park, LLC (Case No. IPC-E-04-19, Order No. 29630) and recently approved for Magic Wind Park in Order No. 30206 issued in case No. IPC-E-06-26. Bennett Creek has voluntarily selected the Fossil Gulch Method. Use of the Fossil Gulch Methodology is a negotiated term of the Agreement and is mutually acceptable to Idaho Power and Bennett Creek.

3. The Agreement reflects the changes to Idaho Power's Schedule 72 approved in Order No. 30179 issued on November 17, 2006 in Case No. IPC-E-06-18. Consistent with Order No. 30179, the Agreement no longer contains certain provisions covering interconnection issues that had previously been included in firm energy sales agreements. Those provisions are now covered by Schedule 72 and the Uniform Interconnection Agreement that is a part of Schedule 72.

VI.

Bennett Creek proposes to design, construct, install, own, operate and maintain an 19.8 MW wind generating facility. The Facility will be a qualified small power production facility under the applicable provisions of the Public Utilities Regulatory Policy Act of 1978 ("PURPA"). The Facility will consist of twelve (12) Vestas wind turbines with individual generator ratings of 1.65 MW for each unit for a total facility generator rating of 19.8 MW. As provided by the Agreement, Bennett Creek will be required to provide data on the Facility that Idaho Power will use to confirm that, under normal and/or average conditions, generation from the Facility will not exceed 10 aMW on a monthly basis.

VII.

Bennett Creek has selected March 31, 2007 as the Scheduled First Energy Date and December 31, 2007 as the Scheduled Operation Date for the Facility. As the Agreement specifies, once a project requests and is assigned an Operation Date, various terms of the Agreement are activated, primarily the 90%/110%

performance criteria. The Agreement requires that only the monthly variable non-firm price for energy be paid for any energy the Facility delivers to Idaho Power prior to the assignment of an Operation Date for this project.

VII.

Section 24 of the Agreement provides that the Agreement will not become effective until the Commission has approved all of the Agreement's terms and conditions and declared that all payments Idaho Power makes to Bennett Creek for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.

IX.

Within this Agreement, various requirements have been placed upon Bennett Creek in order for Idaho Power to accept energy deliveries from this project. Idaho Power will confirm that the initial requirements have been completed prior to accepting energy from this Facility. The Company will also monitor the ongoing requirements through the full term of this Agreement. Should the Commission approve this Agreement, Idaho Power intends to consider the Effective Date of the Agreement to be December 20, 2006.

X.

The Agreement, as signed and submitted by the Parties thereto, contains Non-Levelized Published Avoided Cost Rates in conformity with applicable Commission Orders.

XI.

Service of pleadings, exhibits, orders and other documents relating to this proceeding should be served on the following:

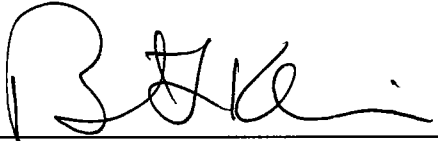
Barton L. Kline, Senior Attorney
Monica B. Moen, Attorney II
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mmoen@idahopower.com

Ric Gale
VP - Pricing and Regulatory
Idaho Power Company
P.O. Box 70
Boise, Idaho 83707
rgale@idahopower.com

NOW, THEREFORE, based on the foregoing, Idaho Power Company hereby requests that the Commission issue its Order:

- (1) Approving the Firm Energy Sales Agreement between Idaho Power Company and Bennett Creek without change or condition; and
- (2) Declaring that all payments for purchases of energy under the Firm Energy Sales Agreement between Idaho Power Company and Bennett Creek be allowed as prudently incurred expenses for ratemaking purposes.

Respectfully submitted this 26th day of December 2006.



BARTON L. KLINE
Attorney for Idaho Power Company

BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION

CASE NO. IPC-E-06-35

IDAHO POWER COMPANY

ATTACHMENT NO. 1

APPLICATION

Idaho Public Utility Commission Copy

Please return this signed original to Idaho Power.

FIRM ENERGY SALES AGREEMENT
BETWEEN
IDAHO POWER COMPANY
AND
BENNETT CREEK WINDFARM, LLC
TABLE OF CONTENTS

<u>Article</u>	<u>TITLE</u>
1	Definitions
2	No Reliance on Idaho Power
3	Warranties
4	Conditions to Acceptance of Energy
5	Term and Operation Date
6	Purchase and Sale of Net Energy
7	Purchase Price and Method of Payment
8	Environmental Attributes
9	Facility and Interconnection
10	Metering and Telemetry
11	Records
12	Operations
13	Indemnification and Insurance
14	Force Majeure
15	Liability; Dedication
16	Several Obligations
17	Waiver
18	Choice of Laws and Venue
19	Disputes and Default
20	Governmental Authorization
21	Commission Order
22	Successors and Assigns
23	Modification
24	Taxes
25	Notices
26	Additional Terms and Conditions
27	Severability
28	Counterparts
29	Entire Agreement Signatures
	Appendix A
	Appendix B
	Appendix C

FIRM ENERGY SALES AGREEMENT
(10 aMW or Less)

BENNETT CREEK WINDFARM, LLC

Project Number: 21615100

THIS AGREEMENT, entered into on this 20 day of December 2006 between Bennett Creek Windfarm, LLC, an Idaho limited liability company (Seller), and IDAHO POWER COMPANY, an Idaho corporation (Idaho Power), hereinafter sometimes referred to collectively as "Parties" or individually as "Party."

WITNESSETH:

WHEREAS, Seller will design, construct, own, maintain and operate an electric generation facility; and

WHEREAS, Seller wishes to sell, and Idaho Power is willing to purchase, firm electric energy produced by the Seller's Facility.

THEREFORE, In consideration of the mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

ARTICLE I: DEFINITIONS

As used in this Agreement and the appendices attached hereto, the following terms shall have the following meanings:

- 1.1 "Base Energy" – Monthly Net Energy less than 110% of the monthly Net Energy Amount as specified in paragraph 6.2 of this Agreement.
- 1.2 "Commission" - The Idaho Public Utilities Commission.
- 1.3 "Contract Year" - The period commencing each calendar year on the same calendar date as the Operation Date and ending 364 days thereafter.
- 1.4 "Delay Liquidated Damages" – Damages payable to Idaho Power as calculated in paragraph 5.3, 5.4, 5.5 and 5.6.
- 1.5 "Delay Period" – All days past the Scheduled Operation Date until the Seller's Facility achieves the Operation Date. This Delay Period shall not exceed 90 days.

- 1.6 "Delay Price" - The current month's Mid-Columbia Market Energy Cost minus the current month's Base Energy Price specified in paragraph 7.1 of this Agreement. If this calculation results in a value less than 0, the result of this calculation will be 0.
- 1.7 "Designated Dispatch Facility" - Idaho Power's Systems Operations Group, or any subsequent group designated by Idaho Power.
- 1.8 "Facility" - That electric generation facility described in Appendix B of this Agreement.
- 1.9 "First Energy Date" - The day commencing at 0001 hours, Mountain Time, following the day that Seller has satisfied the requirements of Article IV and the Seller begins delivering energy to Idaho Power's system at the Point of Delivery.
- 1.10 "Inadvertent Energy" - Electric energy Seller does not intend to generate. Inadvertent energy is more particularly described in paragraph 7.6 of this Agreement.
- 1.11 "Interconnection Facilities" - All equipment specified in Schedule 72.
- 1.12 "Initial Capacity Determination" - The process by which Idaho Power confirms that under normal or average design conditions the Facility will generate at no more than 10 average MW per month and is therefore eligible to be paid the published rates in accordance with Commission Order No. 29632.
- 1.13 "Losses" - The loss of electrical energy expressed in kilowatt hours (kWh) occurring as a result of the transformation and transmission of energy between the point where the Facility's energy is metered and the point the Facility's energy is delivered to the Idaho Power electrical system. The loss calculation formula will be as specified in Appendix B of this Agreement.
- 1.14 "Market Energy Cost" - Eighty-five percent (85%) of the weighted average of the daily on-peak and off-peak Dow Jones Mid-Columbia Index (Dow Jones Mid-C Index) prices for non-firm energy. If the Dow Jones Mid-Columbia Index price is discontinued by the reporting agency, both Parties will mutually agree upon a replacement index, which is similar to the Dow Jones Mid-Columbia Index. The selected replacement index will be consistent with other similar agreements and a commonly used index by the electrical industry.
- 1.15 "Material Breach" - A Default (paragraph 19.2.1) subject to paragraph 19.2.2.

- 1.16 “Maximum Capacity Amount” – The maximum capacity (MW) of the Facility will be as specified in Appendix B of this Agreement.
- 1.17 “Metering Equipment” - All equipment specified in Schedule 72, this Agreement and any additional equipment specified in Appendix B required to measure, record and telemeter power flows between the Seller's electric generation plant and Idaho Power's system.
- 1.18 “Mid- Columbia Market Energy Cost” – The weighted average of the daily on-peak and off-peak Dow Jones Mid-Columbia Index (Dow Jones Mid-C Index) prices for non-firm energy. If the Dow Jones Mid-Columbia Index price is discontinued by the reporting agency, both Parties will mutually agree upon a replacement index, which is similar to the Dow Jones Mid-Columbia Index. The selected replacement index will be consistent with other similar agreements and a commonly used index by the electrical industry.
- 1.19 “Net Energy” – All of the electric energy produced by the Facility, less Station Use, less Losses, expressed in kilowatt hours (kWh). Seller commits to deliver all Net Energy to Idaho Power at the Point of Delivery for the full term of the Agreement. Net Energy does not include Inadvertent Energy.
- 1.20 “Operation Date” – The day commencing at 0001 hours, Mountain Time, following the day that all requirements of paragraph 5.2 have been completed.
- 1.21 “Point of Delivery” – The location specified in Appendix B, where Idaho Power's and the Seller's electrical facilities are interconnected.
- 1.22 “Prudent Electrical Practices” – Those practices, methods and equipment that are commonly and ordinarily used in electrical engineering and operations to operate electric equipment lawfully, safely, dependably, efficiently and economically.
- 1.23 “Scheduled Operation Date” – The date specified in Appendix B when Seller anticipates achieving the Operation Date.
- 1.24 “Schedule 72” – Idaho Power's Tariff No 101, Schedule 72 or its successor schedules as approved by the Commission.
- 1.25 “Season” – The three periods identified in paragraph 6.2.1 of this Agreement.

- 1.26 “Shortfall Energy” – The method Idaho Power and the Seller have agreed to use to estimate and liquidate the damages Idaho Power will incur if the Seller fails to provide the monthly Net Energy Amounts specified in paragraph 6.2 of this Agreement. Computation of the Shortfall Energy is described in paragraph 7.3 of this Agreement.
- 1.27 “Special Facilities” - Additions or alterations of transmission and/or distribution lines and transformers as described in Schedule 72 or Appendix B to safely interconnect the Seller's Facility to the Idaho Power system.
- 1.28 “Station Use” – Electric energy that is used to operate equipment that is auxiliary or otherwise related to the production of electricity by the Facility.
- 1.29 “Surplus Energy” – (1) Net Energy produced by the Seller’s Facility and delivered to the Idaho Power electrical system during the month which exceeds 110% of the monthly Net Energy Amount for the corresponding month specified in paragraph 6.2. or (2) All Net Energy produced by the Seller’s Facility and delivered by the Facility to the Idaho Power electrical system prior to the Operation Date.
- 1.30 “Total Cost of the Facility” - The total cost of structures, equipment and appurtenances.

ARTICLE II: NO RELIANCE ON IDAHO POWER

- 2.1 Seller Independent Investigation - Seller warrants and represents to Idaho Power that in entering into this Agreement and the undertaking by Seller of the obligations set forth herein, Seller has investigated and determined that it is capable of performing hereunder and has not relied upon the advice, experience or expertise of Idaho Power in connection with the transactions contemplated by this Agreement.
- 2.2 Seller Independent Experts - All professionals or experts including, but not limited to, engineers, attorneys or accountants, that Seller may have consulted or relied on in undertaking the transactions contemplated by this Agreement have been solely those of Seller.

ARTICLE III: WARRANTIES

- 3.1 No Warranty by Idaho Power - Any review, acceptance or failure to review Seller's design, specifications, equipment or facilities shall not be an endorsement or a confirmation by Idaho Power and Idaho Power makes no warranties, expressed or implied, regarding any aspect of Seller's design, specifications, equipment or facilities, including, but not limited to, safety, durability, reliability, strength, capacity, adequacy or economic feasibility.
- 3.2 Qualifying Facility Status - Seller warrants that the Facility is a "Qualifying Facility," as that term is used and defined in 18 CFR 292.201 et seq. After initial qualification, Seller will take such steps as may be required to maintain the Facility's Qualifying Facility status during the term of this Agreement and Seller's failure to maintain Qualifying Facility status will be a Material Breach of this Agreement. Idaho Power reserves the right to review the Seller's Qualifying Facility status and associated support and compliance documents at anytime during the term of this Agreement.

ARTICLE IV: CONDITIONS TO ACCEPTANCE OF ENERGY

- 4.1 Prior to the First Energy Date and as a condition of Idaho Power's acceptance of deliveries of energy from the Seller, Seller shall:
- 4.1.1 Submit proof to Idaho Power that all licenses, permits or approvals necessary for Seller's operations have been obtained from applicable federal, state or local authorities, including, but not limited to, evidence of compliance with Subpart B, 18 CFR 292.201 et seq. and a Qualifying Facility certificate.
- 4.1.2 Opinion of Counsel - Submit to Idaho Power an Opinion Letter signed by an attorney admitted to practice and in good standing in the State of Idaho providing an opinion that Seller's licenses, permits and approvals as set forth in paragraph 4.1.1 above are legally and validly issued, are held in the name of the Seller and, based on a reasonable independent review, counsel is of the opinion that Seller is in substantial compliance with said permits as of the date of the Opinion Letter. The Opinion Letter

will be in a form acceptable to Idaho Power and will acknowledge that the attorney rendering the opinion understands that Idaho Power is relying on said opinion. Idaho Power's acceptance of the form will not be unreasonably withheld. The Opinion Letter will be governed by and shall be interpreted in accordance with the legal opinion accord of the American Bar Association Section of Business Law (1991).

- 4.1.3 Initial Capacity Determination - Submit to Idaho Power such data as Idaho Power may reasonably require to perform the Initial Capacity Determination. Such data will include but not be limited to, equipment specifications, prime mover data, resource characteristics, normal and/or average operating design conditions and Station Use data. Upon receipt of this information, Idaho Power will review the provided data and if necessary, request additional data to complete the Initial Capacity Determination within a reasonable time.
- 4.1.4 Engineer's Certifications - Submit an executed Engineer's Certification of Design & Construction Adequacy and an Engineer's Certification of Operations and Maintenance (O&M) Policy as described in Commission Order No. 21690. These certificates will be in the form specified in Appendix C but may be modified to the extent necessary to recognize the different engineering disciplines providing the certificates.
- 4.1.5 Insurance - Submit written proof to Idaho Power of all insurance required in Article XV.
- 4.1.6 Interconnection - Provide written confirmation from Idaho Power's Delivery Business Unit that Seller has satisfied all interconnection requirements.
- 4.1.7 Written Acceptance - Request and obtain written confirmation from Idaho Power that all conditions to acceptance of energy have been fulfilled. Such written confirmation shall be provided within a commercially reasonable time following the Seller's request and will not be unreasonably withheld by Idaho Power.

ARTICLE V: TERM AND OPERATION DATE

- 5.1 Term - Subject to the provisions of paragraph 5.2 below, this Agreement shall become effective

on the date first written and shall continue in full force and effect for a period of twenty (20)

Contract Years from the Operation Date.

5.2 Operation Date - The Operation Date may occur only after the Facility has achieved all of the following:

- a) Achieved the First Energy Date.
- b) Commission approval of this Agreement in a form acceptable to Idaho Power has been received.
- c) Seller has demonstrated to Idaho Power's satisfaction that the Facility is complete and able to provide energy in a consistent, reliable and safe manner.
- d) Seller has requested an Operation Date from Idaho Power in a written format.
- e) Seller has received written confirmation from Idaho Power of the Operation Date.

This confirmation will not be unreasonably withheld by Idaho Power.

5.3 Seller shall cause the Facility to achieve the Operation Date on or before the Scheduled Operation Date. If the Operation Date occurs after the Scheduled Operation Date, Seller shall pay Idaho Power Delay Liquidated Damages. Delay Liquidated Damages will be calculated monthly as follows:

Delay Liquidated Damages are equal to ((Current month's Initial Year Net Energy Amount as specified in paragraph 6.2.1 divided by the number of days in the current month) multiplied by the current months Delay Period) multiplied by the current months Delay Price.

5.4 Delay Liquidated Damages will be calculated for a maximum of ninety (90) days past the Scheduled Operation Date. If Seller fails to achieve the Operation Date within ninety (90) days of the Scheduled Operation Date, Idaho Power may terminate this Agreement.

5.5 Seller shall pay Idaho Power any calculated Delay Liquidated Damages within 7 days of when Idaho Power calculates and presents any Delay Liquidated Damages billings to the Seller. Seller's failure to pay these damages within the specified time will be a Material Breach of this Agreement.

5.6 The Parties agree that the damages Idaho Power would incur due to delay in the Facility achieving the Operation Date on or before the Scheduled Operation Date would be difficult or impossible to predict with certainty, and that the Delay Liquidated Damages are an appropriate approximation of such damages.

ARTICLE VI: PURCHASE AND SALE OF NET ENERGY

6.1 Delivery and Acceptance of Net Energy - Except when either Party's performance is excused as provided herein, Idaho Power will purchase and Seller will sell all of the Net Energy to Idaho Power at the Point of Delivery. All Inadvertent Energy produced by the Facility will also be delivered by the Seller to Idaho Power at the Point of Delivery. At no time will the total amount of Net Energy and/or Inadvertent Energy produced by the Facility and delivered by the Seller to the Point of Delivery exceed the Maximum Capacity Amount.

6.2 Net Energy Amounts - Seller intends to produce and deliver Net Energy in the following monthly amounts:

6.2.1 Initial Year Monthly Net Energy Amounts:

	<u>Month</u>	<u>kWh</u>
Season 1	March	5,333,000
	April	5,333,000
	May	4,556,000
Season 2	July	4,222,000
	August	4,222,000
	November	3,833,000
	December	4,889,000
Season 3	June	5,111,000
	September	4,389,000
	October	4,611,000
	January	3,944,000
	February	5,111,000

6.2.2 Ongoing Monthly Net Energy Amounts - Seller shall initially provide Idaho Power with one year of monthly generation estimates (Initial Year Monthly Net Energy Amounts) and beginning at the end of month nine and every three months thereafter provide Idaho Power with an additional three months of forward generation estimates. This information will be provided to Idaho Power by written notice in accordance with paragraph 25.1, no later than 5:00 PM of the 5th day following the end of the previous month. If the Seller does not provide the Ongoing Monthly Net Energy Amounts in a timely manner, Idaho Power will use the most recent 3 months of the Initial Year Monthly Net Energy Amounts specified in paragraph 6.2.1 for the next 3 months of monthly Net Energy amounts.

6.2.3 Seller's Adjustment of Net Energy Amount –

6.2.3.1 No later than the Operation Date, by written notice given to Idaho Power in accordance with paragraph 25.1, the Seller may revise all of the previously provided Initial Year Monthly Net Energy Amounts.

6.2.3.2 Beginning with the end of the 3rd month after the Operation Date and at the end of every third month thereafter: (1) the Seller may not revise the immediate next three months of previously provided Net Energy Amounts, (2) but by written notice given to Idaho Power in accordance with paragraph 25.1, no later than 5:00 PM of the 5th day following the end of the previous month, the Seller may revise all other previously provided Net Energy Amounts. Failure to provide timely written notice of changed amounts will be deemed to be an election of no change.

6.2.4 Idaho Power Adjustment of Net Energy Amount – If Idaho Power is excused from accepting the Seller's Net Energy as specified in paragraph 12.2.1 or if the Seller declares a Suspension of Energy Deliveries as specified in paragraph 12.3.1 and the Seller's declared Suspension of Energy Deliveries is accepted by Idaho Power, the Net Energy Amount as specified in paragraph 6.2 for the specific month in which the reduction or

suspension under paragraph 12.2.1 or 12.3.1 occurs will be reduced in accordance with the following:

Where:

NEA = Current Month's Net Energy Amount (Paragraph 6.2)

SGU = a.) If Idaho Power is excused from accepting the Seller's Net Energy as specified in paragraph 12.2.1 this value will be equal to the percentage of curtailment as specified by Idaho Power multiplied by the TGU as defined below.

b.) If the Seller declares a Suspension of Energy Deliveries as specified in paragraph 12.3.1 this value will be the sum of the individual generation units size ratings as specified in Appendix B that are impacted by the circumstances causing the Seller to declare a Suspension of Energy Deliveries.

TGU = Sum of all of the individual generator ratings of the generation units at this Facility as specified in Appendix B of this agreement.

RSH = Actual hours the Facility's Net Energy deliveries were either reduced or suspended under paragraph 12.2.1 or 12.3.1

TH = Actual total hours in the current month

Resulting formula being:

$$\text{Adjusted Net Energy Amount} = \text{NEA} - \left(\left(\frac{\text{SGU}}{\text{TGU}} \times \text{NEA} \right) \times \left(\frac{\text{RSH}}{\text{TH}} \right) \right)$$

This Adjusted Net Energy Amount will be used in applicable Surplus Energy and Shortfall Energy calculations for only the specific month in which Idaho Power was excused from accepting the Seller's Net Energy or the Seller declared a Suspension of Energy.

6.3 Unless excused by an event of Force Majeure, Seller's failure to deliver Net Energy in any Contract Year in an amount equal to at least ten percent (10%) of the sum of the Initial Year Net Energy Amounts as specified in paragraph 6.2 shall constitute an event of default.

ARTICLE VII: PURCHASE PRICE AND METHOD OF PAYMENT

7.1 Base Energy Purchase Price – For all Base Energy, Idaho Power will pay the non-levelized energy price in accordance with Commission Order 29646 with seasonalization factors applied:

<u>Year</u>	<u>Season 1 - (73.50 %)</u> <u>Mills/kWh</u>	<u>Season 2 - (120.00 %)</u> <u>Mills/kWh</u>	<u>Season 3 - (100.00 %)</u> <u>Mills/kWh</u>
2006	37.85	61.80	51.50
2007	38.73	63.23	52.69
2008	39.62	64.68	53.90
2009	40.53	66.17	55.14
2010	41.46	67.69	56.41
2011	42.42	69.25	57.71
2012	43.39	70.85	59.04
2013	44.39	72.48	60.40
2014	45.42	74.16	61.80
2015	46.47	75.86	63.22
2016	47.54	77.62	64.68
2017	48.63	79.40	66.17
2018	49.76	81.24	67.70
2019	50.91	83.11	69.26
2020	52.07	85.02	70.85
2021	53.28	86.99	72.49
2022	54.51	88.99	74.16
2023	55.76	91.04	75.87
2024	57.05	93.14	77.62
2025	58.37	95.29	79.41
2026	59.72	97.50	81.25
2027	61.09	99.74	83.12

7.2 Surplus Energy Price - For all Surplus Energy, Idaho Power shall pay to the Seller the current month's Market Energy Cost or the Base Energy Purchase Price specified in paragraph 7.1, whichever is lower.

7.3 Shortfall Energy – If the month's Net Energy is less than 90% of the monthly Net Energy Amount as specified in paragraph 6.2 of this Agreement for the corresponding month, Shortfall Energy will be the difference between 90% of the monthly Net Energy Amount and the same month's actual Net Energy delivered to the Point of Delivery.

7.4 Shortfall Energy Price – For all Shortfall Energy, if the Market Energy Cost for the month in which the Shortfall Energy occurs is less than the Base Energy Purchase Price for the same

month, the Shortfall Energy Price will be 0. If the Market Energy Cost for the month in which the Shortfall Energy occurs is greater than the Base Energy Purchase Price for the same month, the Shortfall Energy Price will be the current month's Market Energy Cost less the Base Energy Purchase Price. If the current month's Market Energy Cost less the Base Energy Purchase Price is greater than 150 percent of the Base Energy Purchase Price, then the Shortfall Energy Price will be 150 percent of the Base Energy Purchase Price.

7.5 Shortfall Energy Payment - The Shortfall Energy Payment amount is the Shortfall Energy amount multiplied by the Shortfall Energy Price. The Shortfall Energy Payment will be withheld from the current month's energy payment. If the current month's energy payment is less than the Shortfall Energy Payment, the Seller will make payment to Idaho Power of the unpaid balance within 15 days of being notified of the outstanding balance. Shortfall Energy Payments are liquidated damages and not penalties. Seller's failure to make payment in full of the Shortfall Energy Payment within the specified time will be a Material Breach of this Agreement.

7.6 Inadvertent Energy –

7.6.1 Inadvertent Energy is electric energy produced by the Facility, expressed in kWh, which the Seller delivers to Idaho Power at the Point of Delivery that exceeds 10,000 kW multiplied by the hours in the specific month in which the energy was delivered. (For example January contains 744 hours. 744 hours times 10,000 kW = 7,440,000 kWh. Energy delivered in January in excess of 7,440,000 kWh in this example would be Inadvertent Energy.)

7.6.2 Although Seller intends to design and operate the Facility to generate no more than 10 average MW and therefore does not intend to generate Inadvertent Energy, Idaho Power will accept Inadvertent Energy that does not exceed the Maximum Capacity Amount but will not purchase or pay for Inadvertent Energy.

7.7 Payment Due Date – Energy payments to the Seller will be disbursed within 30 days of the date which Idaho Power receives and accepts the documentation of the monthly Net Energy actually delivered to Idaho Power as specified in Appendix A.

- 7.8 Continuing Jurisdiction of the Commission . This Agreement is a special contract and, as such, the rates, terms and conditions contained in this Agreement will be construed in accordance with Idaho Power Company v. Idaho Public Utilities Commission and Afton Energy, Inc., 107 Idaho 781, 693 P.2d 427 (1984), Idaho Power Company v. Idaho Public Utilities Commission, 107 Idaho 1122, 695 P.2d 1 261 (1985), Afton Energy, Inc. v. Idaho Power Company, 111 Idaho 925, 729 P.2d 400 (1986), Section 210 of the Public Utilities Regulatory Policies Act of 1978 and 18 CFR §292.303-308

ARTICLE VIII: ENVIRONMENTAL ATTRIBUTES

- 8.1 Idaho Power waives any claim to ownership of Environmental Attributes. Environmental Attributes include, but are not limited to, Green Tags, Green Certificates, Renewable Energy Credits (RECs) and Tradable Renewable Certificates (TRCs) directly associated with the production of energy from the Seller's Facility.

ARTICLE IX: FACILITY AND INTERCONNECTION

- 9.1 Design of Facility - Seller will design, construct, install, own, operate and maintain the Facility and any Seller-owned Interconnection Facilities so as to allow safe and reliable generation and delivery of Net Energy and Inadvertent Energy to the Idaho Power Point of Delivery for the full term of the Agreement.

ARTICLE X: METERING AND TELEMETRY

- 10.1 Metering and Telemetry - Idaho Power shall, for the account of Seller, provide, install, and maintain Metering Equipment to be located at a mutually agreed upon location to record and measure power flows to Idaho Power in accordance with Schedule 72. The Metering Equipment will be at the location and the type required to measure, record and report the Facility's Net Energy, Station Use, Inadvertent Energy and maximum energy deliveries (kW) in a manner to provide Idaho Power adequate energy measurement data to administer this Agreement and to

integrate this Facility's energy production into the Idaho Power electrical system

ARTICLE XI - RECORDS

- 11.1 Maintenance of Records - Seller shall maintain at the Facility or such other location mutually acceptable to the Parties adequate total generation, Net Energy, Station Use, Inadvertent Energy and maximum generation (kW) records in a form and content recommended by Idaho Power.
- 11.2 Inspection - Either Party, after reasonable notice to the other Party, shall have the right, during normal business hours, to inspect and audit any or all generation, Net Energy, Station Use, Inadvertent Energy and maximum generation (kW) records pertaining to the Seller's Facility.

ARTICLE XII: OPERATIONS

- 12.1 Communications - Idaho Power and the Seller shall maintain appropriate operating communications through Idaho Power's Designated Dispatch Facility in accordance with Appendix A of this Agreement.
- 12.2 Energy Acceptance -
- 12.2.1 Idaho Power shall be excused from accepting and paying for Net Energy or accepting Inadvertent Energy produced by the Facility and delivered by the Seller to the Point of Delivery, if it is prevented from doing so by an event of Force Majeure, or temporary disconnection of the Facility in accordance with Schedule 72. If, for reasons other than an event of Force Majeure, a temporary disconnection under Schedule 72 exceeds twenty (20) days, beginning with the twenty-first day of such interruption, curtailment or reduction, Seller will be deemed to be delivering Net Energy at a rate equivalent to the pro rata daily average of the amounts specified for the applicable month in paragraph 6.2. Idaho Power will notify Seller when the interruption, curtailment or reduction is terminated.
- 12.2.2 If, in the reasonable opinion of Idaho Power, Seller's operation of the Facility or Interconnection Facilities is unsafe or may otherwise adversely affect Idaho Power's

equipment, personnel or service to its customers, Idaho Power may temporarily disconnect the Facility from Idaho Power's transmission / distribution system as specified within Schedule 72 or take such other reasonable steps as Idaho Power deems appropriate.

12.2.3 Under no circumstances will the Seller deliver Net Energy and/or Inadvertent Energy from the Facility to the Point of Delivery in an amount that exceeds the Maximum Capacity Amount. Seller's failure to limit deliveries to the Maximum Capacity Amount will be a Material Breach of this Agreement.

12.3 Seller Declared Suspension of Energy Deliveries

12.3.1 If the Seller's Facility experiences a forced outage due to equipment failure which is not caused by an event of Force Majeure or by neglect, disrepair or lack of adequate preventative maintenance of the Seller's Facility, Seller may, after giving notice as provided in paragraph 12.3.2 below, temporarily suspend all deliveries of Net Energy to Idaho Power from the Facility or from individual generation unit(s) within the Facility impacted by the forced outage for a period of not less than 48 hours to correct the forced outage condition ("Declared Suspension of Energy Deliveries"). The Seller's Declared Suspension of Energy Deliveries will begin at the start of the next full hour following the Seller's telephone notification as specified in paragraph 12.3.2 and will continue for the time as specified (not less than 48 hours) in the written notification provided by the Seller. In the month(s) in which the Declared Suspension of Energy occurred, the Net Energy Amount will be adjusted as specified in paragraph 6.2.4.

12.3.2 If the Seller desires to initiate a Declared Suspension of Energy Deliveries as provided in paragraph 12.3.1, the Seller will notify the Designated Dispatch Facility by telephone. The beginning hour of the Declared Suspension of Energy Deliveries will be at the earliest the next full hour after making telephone contact with Idaho Power. The Seller will, within 24 hours after the telephone contact, provide Idaho Power a written notice in accordance with Article XXVIII that will contain the beginning hour and duration of the

Declared Suspension of Energy Deliveries and a description of the conditions that caused the Seller to initiate a Declared Suspension of Energy Deliveries. Idaho Power will review the documentation provided by the Seller to determine Idaho Power's acceptance of the described forced outage as qualifying for a Declared Suspension of Energy Deliveries as specified in paragraph 12.3.1. Idaho Power's acceptance of the Seller's forced outage as an acceptable forced outage will be based upon the clear documentation provided by the Seller that the forced outage is not due to an event of Force Majeure or by neglect, disrepair or lack of adequate preventative maintenance of the Seller's Facility.

- 12.4 Scheduled Maintenance – On or before January 31 of each calendar year, Seller shall submit a written proposed maintenance schedule of significant Facility maintenance for that calendar year and Idaho Power and Seller shall mutually agree as to the acceptability of the proposed schedule. The Parties' determination as to the acceptability of the Seller's timetable for scheduled maintenance will take into consideration Prudent Electrical Practices, Idaho Power system requirements and the Seller's preferred schedule. Neither Party shall unreasonably withhold acceptance of the proposed maintenance schedule.
- 12.5 Maintenance Coordination - The Seller and Idaho Power shall, to the extent practical, coordinate their respective line and Facility maintenance schedules such that they occur simultaneously.
- 12.6 Contact Prior to Curtailment - Idaho Power will make a reasonable attempt to contact the Seller prior to exercising its rights to interrupt interconnection or curtail deliveries from the Seller's Facility. Seller understands that in the case of emergency circumstances, real time operations of the electrical system, and/or unplanned events Idaho Power may not be able to provide notice to the Seller prior to interruption, curtailment, or reduction of electrical energy deliveries to Idaho Power.

ARTICLE XIII: INDEMNIFICATION AND INSURANCE

- 13.1 Indemnification - Each Party shall agree to hold harmless and to indemnify the other Party, its officers, agents, affiliates, subsidiaries, parent company and employees against all loss, damage,

expense and liability to third persons for injury to or death of person or injury to property, proximately caused by the indemnifying Party's construction, ownership, operation or maintenance of, or by failure of, any of such Party's works or facilities used in connection with this Agreement. The indemnifying Party shall, on the other Party's request, defend any suit asserting a claim covered by this indemnity. The indemnifying Party shall pay all costs, including reasonable attorney fees that may be incurred by the other Party in enforcing this indemnity.

13.2 Insurance - During the term of this Agreement, Seller shall secure and continuously carry the following insurance coverage:

13.2.1 Comprehensive General Liability Insurance for both bodily injury and property damage with limits equal to \$1,000,000, each occurrence, combined single limit. The deductible for such insurance shall be consistent with current Insurance Industry Utility practices for similar property.

13.2.2 The above insurance coverage shall be placed with an insurance company with an A.M. Best Company rating of A- or better and shall include:

- (a) An endorsement naming Idaho Power as an additional insured and loss payee as applicable; and
- (b) A provision stating that such policy shall not be canceled or the limits of liability reduced without sixty (60) days' prior written notice to Idaho Power.

13.3 Seller to Provide Certificate of Insurance - As required in paragraph 4.1.5 herein and annually thereafter, Seller shall furnish Idaho Power a certificate of insurance, together with the endorsements required therein, evidencing the coverage as set forth above.

13.4 Seller to Notify Idaho Power of Loss of Coverage - If the insurance coverage required by paragraph 13.2 shall lapse for any reason, Seller will immediately notify Idaho Power in writing. The notice will advise Idaho Power of the specific reason for the lapse and the steps Seller is taking to reinstate the coverage. Failure to provide this notice and to expeditiously reinstate or replace the coverage will constitute a Material Breach of this Agreement.

ARTICLE XIV: FORCE MAJEURE

14.1 As used in this Agreement, "Force Majeure" or "an event of Force Majeure" means any cause beyond the control of the Seller or of Idaho Power which, despite the exercise of due diligence, such Party is unable to prevent or overcome. Force Majeure includes, but is not limited to, acts of God, fire, flood, storms, wars, hostilities, civil strife, strikes and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, or changes in law or regulation occurring after the Operation Date, which, by the exercise of reasonable foresight such party could not reasonably have been expected to avoid and by the exercise of due diligence, it shall be unable to overcome. If either Party is rendered wholly or in part unable to perform its obligations under this Agreement because of an event of Force Majeure, both Parties shall be excused from whatever performance is affected by the event of Force Majeure, provided that:

- (1) The non-performing Party shall, as soon as is reasonably possible after the occurrence of the Force Majeure, give the other Party written notice describing the particulars of the occurrence.
- (2) The suspension of performance shall be of no greater scope and of no longer duration than is required by the event of Force Majeure.
- (3) No obligations of either Party which arose before the occurrence causing the suspension of performance and which could and should have been fully performed before such occurrence shall be excused as a result of such occurrence.

ARTICLE XV: LIABILITY; DEDICATION

15.1 Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public or affect the status of Idaho Power as an independent public utility corporation or Seller as an independent individual or

entity.

ARTICLE XVI: SEVERAL OBLIGATIONS

- 16.1 Except where specifically stated in this Agreement to be otherwise, the duties, obligations and liabilities of the Parties are intended to be several and not joint or collective. Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or impose a trust or partnership duty, obligation or liability on or with regard to either Party. Each Party shall be individually and severally liable for its own obligations under this Agreement.

ARTICLE XVII: WAIVER

- 17.1 Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or other matter.

ARTICLE XVIII: CHOICE OF LAWS AND VENUE

- 18.1 This Agreement shall be construed and interpreted in accordance with the laws of the State of Idaho without reference to its choice of law provisions.
- 18.2 Venue for any litigation arising out of or related to this Agreement will lie in the District Court of the Fourth Judicial District of Idaho in and for the County of Ada.

ARTICLE XIX: DISPUTES AND DEFAULT

- 19.1 Disputes - All disputes related to or arising under this Agreement, including, but not limited to, the interpretation of the terms and conditions of this Agreement, will be submitted to the Commission for resolution.
- 19.2 Notice of Default -
- 19.2.1 Defaults. If either Party fails to perform any of the terms or conditions of this

Agreement (an “event of default”), the nondefaulting Party shall cause notice in writing to be given to the defaulting Party, specifying the manner in which such default occurred. If the defaulting Party shall fail to cure such default within the sixty (60) days after service of such notice, or if the defaulting Party reasonably demonstrates to the other Party that the default can be cured within a commercially reasonable time but not within such sixty (60) day period and then fails to diligently pursue such cure, then, the nondefaulting Party may, at its option, terminate this Agreement and/or pursue its legal or equitable remedies.

19.2.2 Material Breaches – The notice and cure provisions in paragraph 19.2.1 do not apply to defaults identified in this Agreement as Material Breaches. Material Breaches must be cured as expeditiously as possible following occurrence of the breach.

19.3 Security for Performance - Prior to the Operation Date and thereafter for the full term of this Agreement, Seller will provide Idaho Power with the following:

19.3.1 Insurance - Evidence of compliance with the provisions of paragraph 13.2. If Seller fails to comply, such failure will be a Material Breach and may only be cured by Seller supplying evidence that the required insurance coverage has been replaced or reinstated;

19.3.2 Engineer’s Certifications - Every three (3) years after the Operation Date, Seller will supply Idaho Power with a Certification of Ongoing Operations and Maintenance (O & M) from a Registered Professional Engineer licensed in the State of Idaho, which Certification of Ongoing O & M shall be in the form specified in Appendix C. Seller’s failure to supply the required certificate will be an event of default. Such a default may only be cured by Seller providing the required certificate; and

19.3.3 Licenses and Permits - During the full term of this Agreement, Seller shall maintain compliance with all permits and licenses described in paragraph 4.1.1 of this Agreement. In addition, Seller will supply Idaho Power with copies of any new or additional permits or licenses. At least every fifth Contract Year, Seller will update the

documentation described in Paragraph 4.1.1. If at any time Seller fails to maintain compliance with the permits and licenses described in paragraph 4.1.1 or to provide the documentation required by this paragraph, such failure will be an event of default and may only be cured by Seller submitting to Idaho Power evidence of compliance from the permitting agency.

ARTICLE XX: GOVERNMENTAL AUTHORIZATION

20.1 This Agreement is subject to the jurisdiction of those governmental agencies having control over either Party of this Agreement.

ARTICLE XXI: COMMISSION ORDER

21.1 This Agreement shall become finally effective upon the Commission's approval of all terms and provisions hereof without change or condition and declaration that all payments to be made to Seller hereunder shall be allowed as prudently incurred expenses for ratemaking purposes.

ARTICLE XXII: SUCCESSORS AND ASSIGNS

22.1 This Agreement and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties hereto, except that no assignment hereof by either Party shall become effective without the written consent of both Parties being first obtained. Such consent shall not be unreasonably withheld. Notwithstanding the foregoing, any party which Idaho Power may consolidate, or into which it may merge, or to which it may convey or transfer substantially all of its electric utility assets, shall automatically, without further act, and without need of consent or approval by the Seller, succeed to all of Idaho Power's rights, obligations and interests under this Agreement. This article shall not prevent a financing entity with recorded or secured rights from exercising all rights and remedies available to it under law or contract. Idaho Power shall have the right to be notified by the financing entity that it is exercising such rights or remedies.

ARTICLE XXIII: MODIFICATION

23.1 No modification to this Agreement shall be valid unless it is in writing and signed by both Parties and subsequently approved by the Commission.

ARTICLE XXIV: TAXES

24.1 Each Party shall pay before delinquency all taxes and other governmental charges which, if failed to be paid when due, could result in a lien upon the Facility or the Interconnection Facilities.

ARTICLE XXV: NOTICES

25.1 All written notices under this agreement shall be directed as follows and shall be considered delivered when deposited in the U. S. Mail, first-class postage prepaid, as follows:

To Seller: Bennett Creek Windfarm, LLC
Attn: Donald Wong
3155 East Patrick Lane, Suite 1
Las Vegas, NV 89120-3481

Courtesy electronic copy to: donw@surewest.net

To Idaho Power:

Original document to:

Vice President, Power Supply
Idaho Power Company
P O Box 70
Boise, Idaho 83707

Copy of document to:

Cogeneration and Small Power Production
Idaho Power Company
P O Box 70
Boise, Idaho 83707

ARTICLE XXVI: ADDITIONAL TERMS AND CONDITIONS

26.1 This Agreement includes the following appendices, which are attached hereto and included by

reference:

Appendix A - Generation Scheduling and Reporting
Appendix B - Facility and Point of Delivery
Appendix C - Engineer's Certifications

ARTICLE XXVII: SEVERABILITY

27.1 The invalidity or unenforceability of any term or provision of this Agreement shall not affect the validity or enforceability of any other terms or provisions and this Agreement shall be construed in all other respects as if the invalid or unenforceable term or provision were omitted.

ARTICLE XXVIII: COUNTERPARTS

28.1 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

ARTICLE XXIX: ENTIRE AGREEMENT

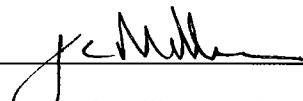
29.1 This Agreement constitutes the entire Agreement of the Parties concerning the subject matter hereof and supersedes all prior or contemporaneous oral or written agreements between the Parties concerning the subject matter hereof.

IN WITNESS WHEREOF, The Parties hereto have caused this Agreement to be executed in their respective names on the dates set forth below:


Idaho Power Company

Bennett Creek Windfarm, L.L.C.

By


James C. Miller, Sr. Vice President, Power Supply

By


Glenn Ikemoto, Authorized Manager

Dated

DEC 20, 2006
"Idaho Power"

Dated

12-16-2006
"Seller"

APPENDIX A

A-1 MONTHLY POWER PRODUCTION AND SWITCHING REPORT

At the end of each month the following required documentation will be submitted to:

Idaho Power Company
Attn: Cogeneration and Small Power Production
P O Box 70
Boise, Idaho 83707

The Meter readings required on this report will be the reading on the Idaho Power Meter Equipment measuring the Facility's total energy production, Station Usage, Inadvertent Energy delivered to Idaho Power and the maximum generated energy (kW) as recorded on the Meter Equipment and/or any other required energy measurements to adequately administer this Agreement.

Idaho Power Company

Cogeneration and Small Power Production

MONTHLY POWER PRODUCTION AND SWITCHING REPORT

Month _____

Year _____

Project Name _____

Project Number: _____

Address _____

Phone Number: _____

City _____

State _____

Zip _____

	<u>Facility Output</u>	<u>Station Usage</u>	<u>Station Usage</u>	<u>Metered Maximum Generation</u>
Meter Number:	_____	_____	_____	kW
End of Month kWh Meter Reading:	_____	_____	_____	
Beginning of Month kWh Meter:	_____	_____	_____	
Difference:	_____	_____	_____	<u>Net Generation</u>
Times Meter Constant:	_____	_____	_____	
kWh for the Month:	_____ -	_____ -	_____ =	
Metered Demand:	_____	_____	_____	

Breaker Opening Record

Breaker Closing Record

<u>Date</u>	<u>Time</u>	<u>Meter</u>

* <u>Reason</u>

<u>Date</u>	<u>Time</u>	<u>Meter</u>

* **Breaker Opening Reason Codes**

- 1 Lack of Adequate Prime Mover
- 2 Forced Outage of Facility
- 3 Disturbance of IPCo System
- 4 Scheduled Maintenance
- 5 Testing of Protection Systems
- 6 Cause Unknown
- 7 Other (Explain)

I hereby certify that the above meter readings are true and correct as of Midnight on the last day of the above month and that the switching record is accurate and complete as required by the Firm Energy Sales Agreement to which I am a Party.

Signature

Date

Idaho Power Contact Information

Daily Energy Production Reporting

Call daily by 10 a.m., 1-800-356-4328 or 1-800-635-1093 and leave the following information:

- Project Identification - Project Name and Project Number
- Current Meter Reading
- Estimated Generation for the current day
- Estimated Generation for the next day

Planned and Unplanned Project outages

Call 1-800-345-1319 and leave the following information:

- Project Identification - Project Name and Project Number
- Approximate time outage occurred
- Estimated day and time of project coming back online

Seller's Contact Information

24-Hour Project Operational Contact

Name: Donald Wong
Telephone Number: 916-791-1959
Cell Phone: 916-791-2250

Project On-site Contact information

Telephone Number: John Steiner - 208-869-7300

APPENDIX B

FACILITY AND POINT OF DELIVERY

PROJECT NO. 21615100

BENNETT CREEK WINDFARM, LLC

B-1 DESCRIPTION OF FACILITY

The Facility will consist of 12 Vestas wind turbines with individual nameplate ratings of 1.65 MW for each unit, for a total Facility nameplate generator rating of 19.8 MW. Seller may substitute at any time prior to the Operation Date, a different manufacturer and/or model wind turbine provided that the aggregate nameplate rating of the Facility does not exceed 20 MW.

B-2 LOCATION OF FACILITY

Near:

Sections: 22, 23, 26 (Less SE Quarter), 27 Township: 4S Range: 8E County: Elmore ID.

B-3 SCHEDULED FIRST ENERGY AND OPERATION DATE

Seller has selected March 31, 2007 as the estimated Scheduled First Energy Date.

Seller has selected December 31, 2007 as the estimated Scheduled Operation Date.

In making these selections, Seller recognizes that adequate testing of the Facility and completion of all requirements in paragraph 5.2 of this Agreement must be completed prior to the project being granted an Operation Date. Idaho Power, based on the information supplied by the Seller, will schedule its construction in accordance with Schedule 72.

B-4 MAXIMUM CAPACITY AMOUNT: This value will be 20 MW which is consistent with the value provided by the Seller to Idaho Power in accordance with Schedule 72. This value is the maximum energy (MW) that potentially could be delivered by the Seller's Facility to the Idaho Power electrical system at any moment in time.

B-5 POINT OF DELIVERY

“Point of Delivery” means, unless otherwise agreed by both Parties, the point of where the Sellers Facility’s energy is delivered to the Idaho Power electrical system. Schedule 72 will determine the specific Point of Delivery for this Facility. The Point of Delivery identified by Schedule 72 will become an integral part of this Agreement.

B-6 LOSSES

If the Idaho Power Metering equipment is capable of measuring the exact energy deliveries by the Seller to the Idaho Power electrical system at the Point of Delivery, no Losses will be calculated for this Facility. If the Idaho Power Metering is unable to measure the exact energy deliveries by the Seller to the Idaho Power electrical system at the Point of Delivery, a Losses calculation will be established to measure the energy losses (kWh) between the Seller’s Facility and the Idaho Power Point of Delivery. This loss calculation will be initially set at 2% of the kWh energy production recorded on the Facility generation metering equipment. At such time as Seller provides Idaho Power with the electrical equipment specifications (transformer loss specifications, conductor sizes, etc) of all of the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power will configure a revised loss calculation formula to be agreed to by both parties and used to calculate the kWh Losses for the remaining term of the Agreement. If at anytime during the term of this Agreement, Idaho Power determines that the loss calculation does not correctly reflect the actual kWh losses attributed to the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power may adjust the calculation and retroactively adjust the previous months kWh loss calculations.

B-7 METERING AND TELEMETRY

Schedule 72 will determine the specific metering and telemetry requirements for this Facility. At the minimum the Metering Equipment and Telemetry equipment must be able to provide and

record hourly energy deliveries to the Point of Delivery and any other energy measurements required to administer this Agreement. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. Seller will arrange for and make available at Seller's cost communication circuit(s) compatible to Idaho Power's communications equipment and dedicated to Idaho Power's use terminating at the Idaho Power facilities capable of providing Idaho Power with continuous instantaneous information on the Facilities energy production. Idaho Power provided equipment will be owned and maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total metering cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

APPENDIX C

ENGINEER'S CERTIFICATION

OF

OPERATIONS & MAINTENANCE POLICY

The undersigned _____, on behalf of himself and _____, hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter "Agreement," between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as IPCo Facility No. _____ and is hereinafter referred to as the "Project."
4. That the Project, which is commonly known as the _____ Project, is located in Section _____ Township _____ Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a twenty (20) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has reviewed and/or supervised the review of the Policy for Operation and Maintenance ("O&M") for this Project and it is his professional opinion that, provided said Project has been designed and built to appropriate standards, adherence to said O&M Policy will result in the Project's producing at or near the design electrical output, efficiency and plant factor for a twenty (20) year period.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.

10. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____

(P.E. Stamp)

Date _____

APPENDIX C

ENGINEER'S CERTIFICATION

OF

ONGOING OPERATIONS AND MAINTENANCE

The undersigned _____, on behalf of himself and _____ hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter "Agreement," between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as IPCo Facility No. _____ and hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the _____ Project, is located in Section _____ Township _____ Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a twenty (20) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has made a physical inspection of said Project, its operations and maintenance records since the last previous certified inspection. It is Engineer's professional opinion, based on the Project's appearance, that its ongoing O&M has been substantially in accordance with said O&M Policy; that it is in reasonably good operating condition; and that if adherence to said O&M Policy continues, the Project will continue producing at or near its design electrical output, efficiency and plant factor for the remaining _____ years of the Agreement.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.

10. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____

(P.E. Stamp)

Date _____

APPENDIX C
ENGINEER'S CERTIFICATION
OF
DESIGN & CONSTRUCTION ADEQUACY

The undersigned _____, on behalf of himself and _____, hereinafter collectively referred to as "Engineer", hereby states and certifies to Idaho Power as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Firm Energy Sales Agreement, hereinafter "Agreement", between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project, which is the subject of the Agreement and this Statement, is identified as IPCo Facility No _____ and is hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the _____ Project, is located in Section _____ Township _____ Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a _____ (____) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project and has made the analysis of the plans and specifications independently.
8. That Engineer has reviewed the engineering design and construction of the Project, including the civil work, electrical work, generating equipment, prime mover conveyance system, Seller furnished Interconnection Facilities and other Project facilities and equipment.
9. That the Project has been constructed in accordance with said plans and specifications, all

applicable codes and consistent with Prudent Electrical Practices as that term is described in the Agreement.

10. That the design and construction of the Project is such that with reasonable and prudent operation and maintenance practices by Seller, the Project is capable of performing in accordance with the terms of the Agreement and with Prudent Electrical Practices for a _____ (_____) year period.

11. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, in interconnecting the Project with its system, is relying on Engineer's representations and opinions contained in this Statement.

12. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____
(P.E. Stamp)

Date _____

BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION

CASE NO. IPC-E-06-35

IDAHO POWER COMPANY

ATTACHMENT NO. 2

APPLICATION



An IDACORP Company

Randy C. Allphin
Contract Administrator

October 31, 2006

Energy Vision LLC
Glenn Ikemoto
672 Blair Avenue
Piedmont, CA 94611

E-mail Copy: Glenn Ikemoto - glennI@pacbell.net
Joe Miller - joe@mcdevitt-miller.com

Original: US Mail

RE: **Bennett Creek Wind Farm and Hot Springs Wind Farm**
Entitlement to Published Avoided Cost Rates.

Dear Mr. Ikemoto:

As specified and agreed to in the letter agreement between Idaho Power and Energy Vision LLC, dated September 27, 2006, there were various requirements that Energy Vision LLC needed to complete in order for Idaho Power to provide Firm Energy Agreements for these projects. Summarized below are these requirements and the status as of the date of this letter.

1.) IPUC approval required –

Upon execution of final agreements for these projects by both parties, Idaho Power will file the agreements with the IPUC seeking their approval. Only after IPUC approval has been received as specified in the agreements shall the agreements be considered effective and binding on both parties.

2.) By October 31, 2006

a.) Wind Turbine Supply

b.) Financing Secured

Energy Vision has forwarded to Idaho Power Company a letter from John Deere in which John Deere has committed to provide both turbines and financing for these projects.

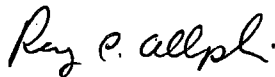
c.) Interconnection

Energy Vision has provided a copy of a cover letter sent to the Idaho Power interconnection group which indicates that interconnection applications have been made. In addition, the Idaho Power interconnection personnel have confirmed that the applications submitted are complete.

As of the date of this letter, Idaho Power confirms that all items required to be completed by October 31, 2006 have been satisfied. Energy Vision has recently submitted a proposed draft agreement to Idaho Power, Idaho Power will review this proposed draft agreement and include the appropriate revisions within a draft firm energy sales agreement for Energy Vision's review.

If you have any questions please contact me at your convenience.

Very truly yours,



Randy C. Allphin
Idaho Power Company
Contract Administrator

CC: Mark Stokes (IPCo)
Bart Kline (IPCo)
Rick Sterling (IPUC)
Scott Woodbury (IPUC)

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR) CASE NO. IPC-E-06-35
APPROVAL OF A FIRM ENERGY SALES)
AGREEMENT FOR THE SALE AND)
PURCHASE OF ELECTRIC ENERGY)
BETWEEN IDAHO POWER COMPANY) ORDER NO. 30245
AND BENNETT CREEK WINDFARM LLC)**

On December 26, 2006, Idaho Power Company (Idaho Power; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting approval of a 20-year Firm Energy Sales Agreement (Agreement) dated December 20, 2006 with Bennett Creek Windfarm LLC (Bennett Creek). The Commission in this Order approves the submitted Agreement.

Background

On August 4, 2005, the Idaho Public Utilities Commission (Commission) in Case No. IPC-E-05-22, Interlocutory Order No. 29839, reduced the eligibility cap for avoided cost published rates for non-firm wind projects from 10 aMW to 100 kW, required individual negotiation for larger wind qualifying facilities (QFs), and established criteria for assessing QF contract entitlement. Reference Public Utility Regulatory Policies Act of 1978 (PURPA). By Commission Order No. 29872 the date for grandfathering eligibility was changed from July 1, 2004, the Notice of Petition date, to August 4, 2005, the date of Order No. 29839.

In Order No. 29839, the Commission also identified several criteria that it would consider to determine whether a particular QF wind generation facility, which had been in the negotiation queue when Order No. 29839 was issued, was sufficiently mature so as to justify "grandfathering" the wind generation facility to entitlement to the published rates. These criteria are as follows:

- (1) Submittal of a signed power purchase agreement to the utility, or
- (2) Submittal to the utility of completed Application for Interconnection Study and payment of fee.

In addition to a finding of existence of one or both of the preceding threshold criteria, the QF must also be able to demonstrate other indicia of substantial progress and project maturity, e.g.,

- (1) A wind study demonstrating a viable site for the project,
- (2) A signed contract for wind turbines,
- (3) Arranged financing for the project, and/or
- (4) Related progress on the facility permitting and licensing path.

(Order No. 29839, p. 10, August 4, 2005; final Order No. 29851.)

Agreement

The proposed Bennett Creek Windfarm will be located within Sections 22, 23, 26 (less SE 1/4) and 27, Township 4 S, Range 8 E, Boise Meridian, Elmore County, Idaho. Bennett Creek warrants the facility will be a qualified small power production facility (QF) under the applicable provisions of PURPA. Agreement ¶ 3.2. The QF facility will consist of 12 Vestas wind turbines with individual nameplate ratings of 1.65 MW for each unit, for a total facility nameplate generator rating of 19.8 MW. Agreement Appendix B-1. The Agreement contains the non-levelized, published avoided cost rates set forth in Order No. 29646 with seasonalization factors applied. Agreement ¶ 7.1. Under normal and/or average operating conditions, the QF will not generate more than 10 aMW on a monthly basis. Energy delivered in excess of this monthly amount is Inadvertent Energy. Idaho Power will accept Inadvertent Energy that does not exceed the Maximum Capacity Amount (20 MW) but will not purchase or pay for Inadvertent Energy. Agreement ¶ 7.6.

Based on Idaho Power Company's review of the information provided by the developer of the project, Idaho Windfarms LLC, and in light of the procedure the Commission accepted in Cassia Wind Order No. 29954, Case No. IPC-E-05-35, Idaho Power has determined that it would be reasonable to grandfather the Bennett Creek facility based on satisfaction of the following criteria identified by the Commission in Order No. 29839, Case No. IPC-E-05-22.

Primary criteria:

Prior to August 5, 2005, the developer had tendered a signed Firm Energy Sales Agreement to Idaho Power for the facility. This satisfies one of the two primary criteria for grandfathering.

Secondary criteria:

As of August 5, 2005, the facility did not have a signed contract for turbines. Idaho Power has reviewed the information provided by the developer and determined that this developer believed that obtaining financing was the highest priority on the critical path to project development and directed its resources to that goal rather than turbine acquisition. As a result, prior to August 4, 2005, the developer had entered into a binding commitment to obtain financing. The Company has also confirmed that as of August 4, 2005, the facility had made substantial progress on the other secondary criteria, except for acquisition of turbines. As in the case of Cassia Wind, the developer has now obtained a firm commitment for turbines for the facility and filed the necessary applications for interconnection to satisfy the second primary criteria.

Idaho Power notes that there are three contract provisions the Commission should be aware of in its consideration of the Agreement:

1. In the contract negotiations, Idaho Power and Bennett Creek agreed that an on-line date of December 2007 is crucial to demonstrate that the project was a viable project in August of 2005. This Agreement contains delay damage provisions that require the project to pay Idaho Power damages if the project comes on-line after December 31, 2007. The delay damages will accrue for a period of up to 90 days. Agreement ¶¶ 5.3 to 5.6.
2. The Agreement contains the methodology for computing shortfall energy payments the Commission approved in the Firm Energy Sales Agreement between Idaho Power and Fossil Gulch Wind Park, LLC (Case No. IPC-E-04-19, Order No. 29630) and recently approved for Magic Wind Park in Order No. 30206 issued in Case No. IPC-E-06-26. Bennett Creek has voluntarily selected the Fossil Gulch Method. Use of the Fossil Gulch methodology is a negotiated term of the Agreement and is mutually acceptable to Idaho Power and Bennett Creek. Agreement ¶ 7.3.
3. The Agreement reflects the changes to Idaho Power's Schedule 72 [Uniform Interconnection Agreement] approved in Order No. 30179 issued on November 17, 2006 in Case No. IPC-E-06-18. Agreement ¶ 4.1.6.

Bennett Creek has selected March 31, 2007 as the estimated Scheduled First Energy Date and December 31, 2007 as the estimated Scheduled Operation Date. Agreement, Appendix B-3.

Section 21.1 of the Agreement provides that the Agreement will not become effective until the Commission has approved all of the Agreement terms and conditions and declared that

all payments Idaho Power makes to Bennett Creek for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.

On January 4, 2007, the Commission issued Notices of Application and Modified Procedure in Case No. IPC-E-06-35. The deadline for filing comments was January 26, 2007. Comments were filed by numerous proponents of renewable energy and by the Commission Staff. Reply comments were filed on February 5, 2007 by Idaho Windfarms LLC, the developer of Bennett Creek and on February 6, 2007 by Idaho Power. Sur-reply comments were filed by Idaho Windfarms on February 8, 2007.

Staff Comments

Grandfathering

Based on Staff's review of the information provided with regard to the primary and secondary grandfathering criteria, Staff agrees with Idaho Power that the Bennett Creek facility should be grandfathered.

Staff also comments on three provisions of the Agreement that distinguish it from other recent PURPA agreements.

On-Line Delay Damages

In their contract negotiations, Idaho Power and Bennett Creek agreed that an on-line date of December 2007 is crucial to demonstrate that the project was a viable project in August of 2005. The Agreement contains delay damage provisions that require the project to pay Idaho Power damages if the project comes on-line after December 31, 2007. The delay damages will accrue for a period of up to 90 days. Staff supports this contract provision. Staff notes that at least six recent QF projects have failed to meet their contractual on-line dates; therefore, Staff believes it is reasonable for Idaho Power to begin inserting damage provisions into PURPA contracts to provide a mechanism for the Company to be made whole if it incurs higher costs to acquire replacement power.

Shortfall Energy Payments

The Agreement contains the Fossil Gulch methodology for computing shortfall energy payments. Reference Agreement ¶ 7.3; Case No. IPC-E-04-19, Order No. 29630. The Fossil Gulch method was recently approved by the Commission for Magic Wind Park in Order No. 30206, Case No. IPC-E-06-26. Use of the Fossil Gulch methodology is a negotiated term of

the Agreement and is mutually acceptable to Idaho Power and Bennett Creek. Staff believes that both the Fossil Gulch method (Order No. 29630) and the U.S. Geothermal method (Order No. 29632) are acceptable alternatives for computing shortfall energy payments and has no objection to developers choosing their preferred method.

Separate Interconnection Agreement

The Agreement reflects the changes to Idaho Power's Schedule 72 approved in Order No. 30179 issued on November 17, 2006 in Case No. IPC-E-06-18. One of the significant changes in Schedule 72 was the creation of a standard interconnection agreement (Uniform Interconnection Agreement) that is separate from the power sales agreement. Bennett Creek has yet to sign an interconnection agreement. Staff recognizes that a QF may have good reason to pursue each agreement separately, even consecutively. In response to Staff production requests, Idaho Power states that it has no reason to believe that a Uniform Interconnection Agreement will not be signed for the project, and further, that if there are no cluster or queue issues that arise requiring additional studies, it is anticipated that a Uniform Interconnection Agreement could be signed by year end 2007. (December 31, 2007 is the Scheduled Operation Date for the project.) The risk to this approach, Staff contends, must remain with the project developer.

The published avoided cost rates contained in the Agreement, Staff believes, are based on an assumption that firm transmission would be available to deliver a project's output without additional Company investment. Consequently, Staff believes that firm transmission capacity is a prerequisite in order for a project's output to be deliverable on a firm basis. As long as Bennett Creek requests firm transmission and agrees to appropriate terms subsequently established for making any required transmission upgrade, the Firm Energy Sales Agreement, Staff believes, can stand unaffected. However, should the project request non-firm transmission, Staff submits that the power product that it delivers must also be considered non-firm. Staff cannot support payment of the full published avoided cost rates contained in the Agreement unless the project acquires firm transmission. Conversely, Staff suggests that some downward adjustment to the contract rates could be warranted if non-firm transmission service is requested. Staff believes that the energy product delivered by Bennett Creek and the price ultimately paid for that product is necessarily determined by both the terms in the power purchase agreement and the interconnection agreement.

Staff recommends approval of the terms and conditions of the Agreement. However, Staff recommends that Commission approval of the Agreement be contingent upon the QF requesting firm transmission service and agreeing to participate in funding any necessary transmission upgrade. Should the QF request non-firm transmission service and decline to participate in funding any transmission upgrades, Staff recommends that the Commission reserve the ability to adjust the rates contained in the Agreement to fairly account for the reduced firmness of the energy delivered or any additional transmission cost incurred by Idaho Power.

Reply Comments – Idaho Windfarms LLC

Idaho Windfarms LLC on behalf of its affiliate Bennett Creek disagrees with Staff's recommended inclusion of conditions related to transmission services. While Idaho Windfarms recognizes the implicit linkage between avoided cost calculations and firm transmission services, it contends that this is not the proper proceeding to deal with transmission-related issues. Idaho Windfarms' objection is based on the following:

- A record for transmission related decisions has not been developed.
- A decision on such issues is not currently required.
- Adding transmission considerations now is inconsistent with grandfathering.

Idaho Windfarms states it is aware that most of the PURPA wind projects with approved power purchase agreements are currently negotiating their interconnection arrangements. This process, it contends, has been complicated by a lack of existing policies related to the cost responsibilities associated with system upgrades and many complex issues, such as:

- The lack of explicit system upgrade costs in the current avoided cost calculation.
- The FERC requirement for reimbursement of system upgrade costs which produce network benefits.
- The quantification of network benefits.
- The reasonableness of the load and resource scenario used in the N-1 study.
- The reasonableness of the system upgrade plan.
- The appropriateness of various full or partial funding and reimbursement mechanisms.

The above issues, it states, are presently being addressed through discussions and negotiations between the parties. Idaho Windfarms contends that Bennett Creek is not in the transmission

constrained area near Twin Falls. Some of the issues faced by the other projects will, however, it contends, impact Idaho Windfarms' transmission negotiations. Idaho Windfarms states that there has been no information placed in the record of this proceeding which would allow for an informed Commission decision on any of these matters.

Regardless of the manner in which the issues noted above are resolved with regard to the project, Idaho Windfarms contends that they will almost certainly be brought to the Commission for approval. That, it states, will be the appropriate time to make decisions related to transmission services and to establish the Commission's policies on these matters.

The Bennett Creek project, Idaho Windfarms contends, has requested firm transmission service. The completed Transmission Feasibility Studies have preliminarily identified the costs associated with such service. Idaho Windfarms contends that there is no reason, in the context of this case, to assume the project and Idaho Power will fail to achieve an appropriate agreement regarding transmission cost responsibility. Nor, it contends, is there any reason in this proceeding to predetermine the substance of, or limits on, the interconnection agreements. Idaho Windfarms believes that transmission service consistent with Idaho's avoided cost calculation is achievable, but it is too early to determine the form the interconnection agreements will take. Idaho Windfarms contends that it is unfair to force it to accept restrictions which have not been applied to the rest of the PURPA projects. That, it states, would be unreasonably prejudicial to Idaho Windfarms' upcoming interconnection negotiations. Idaho Windfarms' projects, it states, should have the same rights and obligations that are ultimately applied to the other PURPA projects.

Staff comments, Idaho Windfarms notes, correctly state that the Bennett Creek project is one of the first to separate transmission service and power purchasing obligations, in compliance with Commission Order No. 30179. Those changes, however, it states, were essentially ministerial and did not address any of the issues related to firm transmission services and cost responsibility. Those changes, it states, do not provide a basis for restricting the project's transmission options before the establishment of the Commission's ultimate transmission policies.

Reply Comments – Idaho Power

The avoided costs contained in the Agreement, Idaho Power contends, were established on the assumption that the costs Idaho Power can avoid by purchasing firm energy

from Bennett Creek are financially equivalent to the fixed and variable costs of a firm, dispatchable, combined cycle combustion turbine owned and operated by Idaho Power.

At this time, Idaho Power states it has no reason to believe that the Bennett Creek project will not acquire firm transmission to allow deliveries of firm energy to Idaho Power. Idaho Power states it does not know what system upgrade costs, if any, the project may be asked to pay so that delivery can provide firm transmission and the project can deliver firm energy to Idaho Power. Finally, it states there is no indication that the project intends to do anything differently than what it has contractually committed to do – that is, deliver firm energy to Idaho Power.

All that being said, Idaho Power states it is in full agreement with Staff's comments that the project is not entitled to be paid the published avoided cost rates contained in the Agreement unless the project contracts for firm transmission service to be provided for the full 20-year term of the Agreement.

Idaho Power recommends that the Commission include findings in its Order confirming that the published avoided cost rates are available only to QFs that obtain firm transmission for the full term of the firm energy sales agreements. The Order, it states, should also provide that the requirement to obtain firm transmission would not preclude a QF from seeking lower cost firm transmission service. Finally, it contends that the Order should provide that after the project has entered into a transmission arrangement, then Idaho Power or Staff can ask the Commission to review the transmission arrangements to confirm that the rates contained in the Agreement are appropriate based on the type of transmission the project has acquired.

Commission Findings

The Commission has reviewed and considered the filings of record in Case No. IPC-E-06-35, including the underlying Agreement, the filed comments and recommendations of the public and Commission Staff, the reply and sur-reply comments of Idaho Windfarms LLC and the reply comments of Idaho Power. Based on our review of the developed record, we continue to find that the public interest does not require a hearing to consider the issues presented in this case and that Modified Procedure is appropriate. IDAPA 31.01.01.204.

A Firm Energy Sales Agreement for the Bennett Creek Windfarm has been presented for Commission approval. Idaho Power contends and Staff agrees that the project is entitled to grandfathered treatment and exemption from the Commission's Order reducing the eligibility

cap for avoided costs published rates for non-firm wind projects from 10 aMW to 100 kW. Based on the developed record, the Commission agrees that grandfathering is appropriate and that the project satisfies the grandfathering eligibility criteria established in Order Nos. 29839 and 29872 in Case No. IPC-E-05-22.

The Agreement is for a 19.8 MW wind project located in Elmore County. As represented and pursuant to contract, under normal and/or average conditions the generation from Bennett Creek will not exceed 10 aMW on a monthly basis. We thus find the project is qualified to receive the published avoided cost rates approved by the Commission. The Commission finds the Agreement submitted in this case contains acceptable contract terms and includes the non-levelized published rates approved by the Commission in Order No. 29646. We further find it reasonable to allow payments made under the Agreement as prudently incurred expenses for ratemaking purposes.

We note that the Bennett Creek project has yet to sign an interconnection agreement. In our approval of separate agreements for power purchase and interconnection in Order No. 30179, we recognized the functional separation between power supply and delivery mandated by FERC. Interconnection is managed by Idaho Power's Power Delivery (Transmission) business unit, while power purchase agreements fall within the purview of Idaho Power's Power Supply (Marketing) business unit. In our Order at page 4 we stated "It does not appear requiring two separate agreements will make it any more burdensome for non-utility generators to develop projects." We have no reason to question this expectation.

Staff contends that the published firm rates presume that the energy will be delivered on a firm basis. Should firm transmission capacity not be requested by the QF or should the QF decline to participate in the funding of necessary transmission upgrades, Staff contends that the rates should be adjusted downward. Idaho Power is in general agreement with Staff and believes that the Order should not be silent on this issue. Idaho Windfarms contends that the Bennett Creek project has requested firm transmission service, and that there is no reason, in the context of this case, to assume that the project and Idaho Power will fail to achieve an appropriate agreement regarding transmission cost responsibility. Idaho Windfarms contends further that the developed record in these cases provides no basis for establishing conditions to its generation agreements related to transmission services. The Commission agrees with Idaho Windfarms and

finds it reasonable to approve the Bennett Creek Agreement without conditions related to transmission service.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over Idaho Power Company, an electric utility, and the issues raised in Case No. IPC-E-06-35 pursuant to the authority and power granted it under Title 61 of the Idaho Code and the Public Utility Regulatory Policies Act of 1978 (PURPA).


The Commission has authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed term obligations for the purchase of energy from qualified facilities (QFs) and to implement FERC rules.

ORDER

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED and the Commission does hereby approve the December 20, 2006 Firm Energy Sales Agreement between Idaho Power Company and Bennett Creek Windfarm LLC.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 20th
day of February 2007.



PAUL KJELLANDER, PRESIDENT

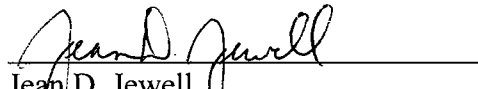


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

bls/O:IPC-E-06-35_sw

Exhibit 10



RECEIVED
2006 DEC 26 PM 3: 35
IDAHO PUBLIC
UTILITIES COMMISSION

Barton L. Kline
Senior Attorney

December 26, 2006

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington Street
P. O. Box 83720
Boise, Idaho 83720-0074

Re: Case No. IPC-E-06-36
In the Matter of the Application of Idaho Power Company for Approval
of a Firm Energy Sales Agreement for the Sale and Purchase of
Electric Energy Between Idaho Power Company and Idaho Winds
LLC for the Alkali Wind Generation Facility

Dear Ms. Jewell:

Please find enclosed for filing an original and seven (7) copies of Idaho Power Company's Application for the above-referenced matter.

I would appreciate it if you would return a stamped copy of this transmittal letter in the enclosed self-addressed, stamped envelope.

Very truly yours,

Barton L. Kline

BLK:sh
Enclosures

BARTON L. KLINE, ISB # 1526
MONICA B. MOEN, ISB # 5734
Idaho Power Company
1221 West Idaho Street
P. O. Box 70
Boise, Idaho 83707
Telephone: (208) 388-2682
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bkline@idahopower.com
mmoen@idahopower.com

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IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for Idaho Power Company

Express Mail Address

1221 West Idaho Street
Boise, Idaho 83702

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)
IDAHO POWER COMPANY FOR APPROVAL)
OF A FIRM ENERGY SALES AGREEMENT)
FOR THE SALE AND PURCHASE OF)
ELECTRIC ENERGY BETWEEN IDAHO)
POWER COMPANY AND IDAHO WINDS LLC)
FOR THE ALKALI WIND GENERATION)
FACILITY)
_____)

CASE NO. IPC-E-06-36
APPLICATION

COMES NOW, Idaho Power Company ("Idaho Power" or "the Company") and, pursuant to RP 52, hereby requests that the Commission issue its Order approving a Firm Energy Sales Agreement (the "Agreement") between Idaho Power and Idaho Winds LLC ("Idaho Winds") under which Idaho Winds would sell and Idaho Power would purchase electric energy generated by Idaho Wind's Alkali Wind Farm Facility located approximately 6 miles northwest of Glens Ferry, in Elmore County, Idaho ("Facility"). A copy of the Agreement is enclosed herewith as Attachment 1.

This Application is based on the following:

I.

In interlocutory Order No. 29839 issued in Case No. IPC-E-05-22, the Commission reduced the size cap for QF wind generation facilities entitled to receive the published avoided cost rates from 10 average megawatts to 100 kW. In Order No. 29839, the Commission also identified several criteria that it would consider to determine whether a particular QF wind generation facility, that had been in the negotiation queue when Order No. 29839 was issued, was sufficiently mature so as to justify “grandfathering” the wind generation facility to entitlement to the published rates.

These criteria are as follows:

- (1) Submittal of a signed power purchase agreement to the utility, or
- (2) Submittal to the utility of a completed Application for Interconnection Study and payment of fee.

In addition to a finding of existence of one or both of the preceding threshold criteria, the QF must also be able to demonstrate other indicia of substantial progress and project maturity, e.g.,

- (1) A wind study demonstrating a viable site for the project,
- (2) A signed contract for wind turbines,
- (3) Arranged financing for the project, and/or
- (4) Related progress on the facility permitting and licensing path.

(Order No. 29839, p. 10, August 4, 2005; final Order No. 29851).

The Commission noted in Order No. 29872 in Case No. IPC-E-05-22, that the degree of substantial progress and project maturity that it would look for is a demonstration that the QF project can be brought on-line in a timely manner and within a reasonable period following contract execution and approval. The Commission stated it would look at the totality of the facts presented.

II.

Following the issuance of reconsideration Order No. 29872, the Commission has reviewed several requests from wind QFs for grandfathering status. Of particular import is Commission Order No. 29954, issued January 17, 2006 in Case No. IPC-E-05-35 in which Cassia Wind sought grandfather status for its tow wind farm projects, (“Cassia Wind Order”). In the Cassia Wind Order the Commission determined that even though, as of the August 4, 2005 cut-off date, Cassia Wind had not completed several important secondary criteria, it would be reasonable for Cassia Wind to receive an exemption from the published rate eligibility cap established in Order No. 29839 *provided* that Cassia Wind was able to demonstrate that it had secured financing and obtained a turbine commitment from John Deere Credit by January 4, 2006.

III.

In this case, the Alkali Facility developer, Pacific Wind LLC, initially advised Idaho Power that it did not desire to pursue a “grandfathering” determination. However, since the issuance of the Cassia Wind order, the developer has decided to pursue a “grandfathered” contract. Based on Idaho Power Company’s review of the information provided by the developer and in light of the Commission’s analysis in the Cassia Wind order, Idaho Power has determined that it would be reasonable to grandfather the Facility based on the following:

Primary Criteria:

1. Prior to Idaho Power filing its petition on June 17, 2005 in Case No. IPC-E-05-22, (“Suspension Petition”), Idaho Power and the Facility developer had completed contract negotiations and were prepared to sign a Firm Energy Sales Agreement for this

Facility. At the time Idaho Power filed the Suspension Petition, Idaho Power advised the developer that Idaho Power would not sign the Firm Energy Sales Agreement until the Commission had considered the Suspension Petition. As noted above, the developer initially decided not to pursue "grandfathering" but now desires to move forward with the Facility. Idaho Power believes that in light of the fact that the parties had fully negotiated and were ready to sign the FESA prior to August 5, 2005, the first primary criteria should be deemed to have been met.

2. The second primary criteria described by the Commission in Order No. 29039 is submittal of a completed application for interconnection. The developer submitted a generation interconnection study application for the Facility on January 31, 2005 for a 10 MW project along with a \$2,000 initial feasibility analysis fee. The developer withdrew the application on May 26, 2005 at the recommendation of Idaho Power Company's transmission group because the developer desired to increase the Facility size to 18 MW. At that time Idaho Power Company's transmission group correctly advised the developer that the interconnection application could not be amended but instead, a new application had to be filed. The developer decided to defer submitting a revised generation interconnection application until the Power Purchase Agreement was signed; an event which both Idaho Power and the developer believed was imminent.

Secondary Criteria:

On August 15, 2005 the developer wrote to Idaho Power describing the development status of the Facility. A copy of the August 15, 2005 letter is attached as Attachment 2. As noted in the August 15, 2005 letter, the developer did not, as of

August 5 2005, have a signed contract for turbines. However, Idaho Power has reviewed the information provided by the developer and confirmed that this developer had determined that obtaining financing was the highest priority on the critical path. Prior to August 4, 2005, the developer had obtained firm commitments to finance the Facility. The Company had also confirmed that as of August 4, 2005, the Facility had made substantial progress on the other secondary criteria, except for acquisition of turbines. As in the case of Cassia Wind, the developer has now obtained a firm commitment for turbines for the Facility. A copy of Idaho Power's November 7, 2006 letter to the developer confirming satisfaction of the required secondary commitments is attached as Attachment 3.

IV.

Based on the foregoing, on December 12, 2006, Idaho Power and Idaho Winds LLC entered into a Firm Energy Sales Agreement ("Agreement") for the Facility pursuant to the terms and conditions of Commission Order No. 29632. Under the terms of that Agreement, Idaho Winds elected to contract with Idaho Power for a 20-year term. Idaho Winds further elected to contract with the Company using the Non-Levelized Published Avoided Cost Rates as currently established by the Commission for projects that, under normal operating conditions, will not generate more than 10 aMW on a monthly basis.

V.

For the most part the Agreement contains terms and conditions identical to the terms and conditions previously approved by the Commission in other Firm Energy Sales Agreements between Idaho Power and various QFs. However, there are two

provisions that the Commission should be aware of in its consideration of this Agreement.

1. In the negotiations of this project, Idaho Power and Idaho Winds agreed that a Facility on-line date of December 2007 is crucial for various reasons. The Agreement contains Delay Damage provisions that require Idaho Winds to pay Idaho Power damages for on-line delays past December 31, 2007 for a period of up to 90 days.

2. The Agreement reflects the changes to Idaho Power's Schedule 72 approved in Order No. 30179 issued on November 17, 2006 in Case No. IPC-E-06-18. Consistent with Order No. 30179, the Agreement no longer contains certain provisions covering interconnection issues that had previously been included in firm energy sales agreements. Those provisions are now covered by Schedule 72 and the Uniform Interconnection Agreement that is a part of Schedule 72.

VI.

Idaho Winds has indicated that the Facility will be an 18 MW wind generating facility. The Facility will be a qualified small power production facility under the applicable provisions of the Public Utilities Regulatory Policy Act of 1978 ("PURPA"). The Facility will consist of 12 GE wind turbines with individual generator ratings of 1.5 MW for each unit for a total facility generator rating of 18 MW. As provided by the Agreement, Idaho Winds will be required to provide data on the Facility that Idaho Power will use to confirm that, under normal and/or average conditions, generation from the Facility will not exceed 10 aMW on a monthly basis.

VII.

Idaho Winds has selected December 30, 2007 as the Scheduled First Energy Date and December 31, 2007 as the Scheduled Operation Date for the Facility. As the Agreement specifies, once a project requests and is assigned an Operation Date, various terms of the Agreement are activated, primarily the 90%/110% performance criteria. The Agreement requires that only the monthly variable non-firm price for energy be paid for any energy the Facility delivers to Idaho Power prior to the assignment of an Operation Date for this project.

VIII.

Section 24 of the Agreement provides that the Agreement will not become effective until the Commission has approved all of the Agreement's terms and conditions and declared that all payments Idaho Power makes to Idaho Winds for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.

IX.

Within this Agreement, various requirements have been placed upon Idaho Winds in order for Idaho Power to accept energy deliveries from this project. Idaho Power will confirm that the initial requirements have been completed prior to accepting energy from this Facility. The Company will also monitor the ongoing requirements through the full term of this Agreement. Should the Commission approve this Agreement, Idaho Power intends to consider the Effective Date of the Agreement to be December 12, 2007.

X.

The Agreement, as signed and submitted by the Parties thereto, contains Non-Levelized Published Avoided Cost Rates in conformity with applicable IPUC Orders.

XI.

Service of pleadings, exhibits, orders and other documents relating to this proceeding should be served on the following:

Barton L. Kline, Senior Attorney
Monica B. Moen, Attorney II
Idaho Power Company
P.O. Box 70
Boise, Idaho 83707
bkline@idahopower.com
mmoen@idahopower.com


Ric Gale
VP-Pricing and Regulatory
Idaho Power Company
P.O. Box 70
Boise, Idaho 83707
rallphin@idahopower.com

NOW, THEREFORE, based on the foregoing, Idaho Power Company hereby requests that the Commission issue its Order:

(1) Approving the Firm Energy Sales Agreement between Idaho Power Company and Idaho Winds without change or condition; and

(2) Declaring that all payments for purchases of energy under the Firm Energy Sales Agreement between Idaho Power Company and Idaho Winds be allowed as prudently incurred expenses for ratemaking purposes.

Respectfully submitted this 26th day of December 2006.



BARTON L. KLINE
Attorney for Idaho Power Company

BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION

CASE NO. IPC-E-06-36

IDAHO POWER COMPANY

ATTACHMENT NO. 1

APPLICATION

FIRM ENERGY SALES AGREEMENT

BETWEEN

IDAHO POWER COMPANY

AND

IDAHO WINDS LLC

TABLE OF CONTENTS

<u>Article</u>	<u>TITLE</u>
1	Definitions
2	No Reliance on Idaho Power
3	Warranties
4	Conditions to Acceptance of Energy
5	Term and Operation Date
6	Purchase and Sale of Net Energy
7	Purchase Price and Method of Payment
8	Environmental Attributes
9	Facility and Interconnection
10	Metering and Telemetry
11	Records
12	Operations
13	Indemnification and Insurance
14	Force Majeure
15	Liability; Dedication
16	Several Obligations
17	Waiver
18	Choice of Laws and Venue
19	Disputes and Default
20	Governmental Authorization
21	Commission Order
22	Successors and Assigns
23	Modification
24	Taxes
25	Notices
26	Additional Terms and Conditions
27	Severability
28	Counterparts
29	Entire Agreement Signatures
	Appendix A
	Appendix B
	Appendix C

FIRM ENERGY SALES AGREEMENT
(10 aMW or Less)

ALKALI WIND FARM

Project Number: 21615200

THIS AGREEMENT, entered into on this 12TH day of DECEMBER 2006 between IDAHO WINDS LLC an Idaho limited liability company (Seller), and IDAHO POWER COMPANY, an Idaho corporation (Idaho Power), hereinafter sometimes referred to collectively as "Parties" or individually as "Party."

WITNESSETH:

WHEREAS, Seller will design, construct, own, maintain and operate an electric generation facility; and

WHEREAS, Seller wishes to sell, and Idaho Power is willing to purchase, firm electric energy produced by the Seller's Facility.

THEREFORE, In consideration of the mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

ARTICLE I: DEFINITIONS

As used in this Agreement and the appendices attached hereto, the following terms shall have the following meanings:

- 1.1 "Commission" - The Idaho Public Utilities Commission.
- 1.2 "Contract Year" - The period commencing each calendar year on the same calendar date as the Operation Date and ending 364 days thereafter.
- 1.3 "Delay Liquidated Damages" - Damages payable to Idaho Power as calculated in paragraph 5.3, 5.4, 5.5 and 5.6.
- 1.4 "Delay Period" - All days past the Scheduled Operation Date until the Seller's Facility achieves the Operation Date. This Delay Period shall not exceed 90 days.

- 1.5 “Delay Price” - The current month’s Market Energy Cost minus the current month’s Net Energy Purchase Price specified in paragraph 7.1 of this Agreement. If this calculation results in a value less than 0, the result of this calculation will be 0.
- 1.6 “Designated Dispatch Facility” - Idaho Power’s Systems Operations Group, or any subsequent group designated by Idaho Power.
- 1.7 “Facility” - That electric generation facility described in Appendix B of this Agreement.
- 1.8 “First Energy Date” - The day commencing at 0001 hours, Mountain Time, following the day that Seller has satisfied the requirements of Article IV and the Seller begins delivering energy to Idaho Power’s system at the Point of Delivery.
- 1.9 “Inadvertent Energy” – Electric energy Seller does not intend to generate. Inadvertent energy is more particularly described in paragraph 7.3 of this Agreement.
- 1.10 “Interconnection Facilities” - All equipment specified in Schedule 72.
- 1.11 “Initial Capacity Determination” – The process by which Idaho Power confirms that under normal or average design conditions the Facility will generate at no more than 10 average MW per month and is therefore eligible to be paid the published rates in accordance with Commission Order No. 29632.
- 1.12 “Losses” – The loss of electrical energy expressed in kilowatt hours (kWh) occurring as a result of the transformation and transmission of energy between the point where the Facility’s energy is metered and the point the Facility’s energy is delivered to the Idaho Power electrical system. The loss calculation formula will be as specified in Appendix B of this Agreement.
- 1.13 “Market Energy Cost” – Eighty-five percent (85%) of the weighted average of the daily on-peak and off-peak Dow Jones Mid-Columbia Index (Dow Jones Mid-C Index) prices for non-firm energy. If the Dow Jones Mid-Columbia Index price is discontinued by the reporting agency, both Parties will mutually agree upon a replacement index, which is similar to the Dow Jones Mid-Columbia Index. The selected replacement index will be consistent with other similar agreements and a commonly used index by the electrical industry.
- 1.14 “Material Breach” – A Default (paragraph 19.2.1) subject to paragraph 19.2.2.

- 1.15 “Maximum Capacity Amount” – The maximum capacity (MW) of the Facility will be as specified in Appendix B of this Agreement.
- 1.16 “Metering Equipment” - All equipment specified in Schedule 72, this Agreement and any additional equipment specified in Appendix B required to measure, record and telemeter power flows between the Seller's electric generation plant and Idaho Power's system.
- 1.17 “Net Energy” – All of the electric energy produced by the Facility, less Station Use, less Losses, expressed in kilowatt hours (kWh). Seller commits to deliver all Net Energy to Idaho Power at the Point of Delivery for the full term of the Agreement. Net Energy does not include Inadvertent Energy.
- 1.18 “Operation Date” – The day commencing at 0001 hours, Mountain Time, following the day that all requirements of paragraph 5.2 have been completed.
- 1.19 “Point of Delivery” – The location specified in Appendix B, where Idaho Power's and the Seller's electrical facilities are interconnected.
- 1.20 “Prudent Electrical Practices” – Those practices, methods and equipment that are commonly and ordinarily used in electrical engineering and operations to operate electric equipment lawfully, safely, dependably, efficiently and economically.
- 1.21 “Scheduled Operation Date” – The date specified in Appendix B when Seller anticipates achieving the Operation Date.
- 1.22 “Schedule 72” – Idaho Power's Tariff No 101, Schedule 72 or its successor schedules as approved by the Commission.
- 1.23 “Season” – The three periods identified in paragraph 6.2.1 of this Agreement.
- 1.24 “Station Use” – Electric energy that is used to operate equipment that is auxiliary or otherwise related to the production of electricity by the Facility.
- 1.25 “Surplus Energy” – (1) Net Energy produced by the Seller's Facility and delivered to the Idaho Power electrical system during the month which exceeds 110% of the monthly Net Energy Amount for the corresponding month specified in paragraph 6.2. or (2) If the Net Energy produced by the Seller's Facility and delivered to the Idaho Power electrical system during the

month is less than 90% of the monthly Net Energy Amount for the corresponding month specified in paragraph 6.2, then all Net Energy delivered by the Facility to the Idaho Power electrical system for that given month or (3) All Net Energy produced by the Seller's Facility and delivered by the Facility to the Idaho Power electrical system prior to the Operation Date.

1.26 "Total Cost of the Facility" - The total cost of structures, equipment and appurtenances.

ARTICLE II: NO RELIANCE ON IDAHO POWER

2.1 Seller Independent Investigation - Seller warrants and represents to Idaho Power that in entering into this Agreement and the undertaking by Seller of the obligations set forth herein, Seller has investigated and determined that it is capable of performing hereunder and has not relied upon the advice, experience or expertise of Idaho Power in connection with the transactions contemplated by this Agreement.

2.2 Seller Independent Experts - All professionals or experts including, but not limited to, engineers, attorneys or accountants, that Seller may have consulted or relied on in undertaking the transactions contemplated by this Agreement have been solely those of Seller.

ARTICLE III: WARRANTIES

3.1 No Warranty by Idaho Power - Any review, acceptance or failure to review Seller's design, specifications, equipment or facilities shall not be an endorsement or a confirmation by Idaho Power and Idaho Power makes no warranties, expressed or implied, regarding any aspect of Seller's design, specifications, equipment or facilities, including, but not limited to, safety, durability, reliability, strength, capacity, adequacy or economic feasibility.

3.2 Qualifying Facility Status - Seller warrants that the Facility is a "Qualifying Facility," as that term is used and defined in 18 CFR 292.201 et seq. After initial qualification, Seller will take such steps as may be required to maintain the Facility's Qualifying Facility status during the term of this Agreement and Seller's failure to maintain Qualifying Facility status will be a Material Breach of this Agreement. Idaho Power reserves the right to review the Seller's Qualifying

Facility status and associated support and compliance documents at anytime during the term of this Agreement.

ARTICLE IV: CONDITIONS TO ACCEPTANCE OF ENERGY

- 4.1 Prior to the First Energy Date and as a condition of Idaho Power's acceptance of deliveries of energy from the Seller, Seller shall:
- 4.1.1 Submit proof to Idaho Power that all licenses, permits or approvals necessary for Seller's operations have been obtained from applicable federal, state or local authorities, including, but not limited to, evidence of compliance with Subpart B, 18 CFR 292.201 et seq. and a Qualifying Facility certificate.
- 4.1.2 Opinion of Counsel - Submit to Idaho Power an Opinion Letter signed by an attorney admitted to practice and in good standing in the State of Idaho providing an opinion that Seller's licenses, permits and approvals as set forth in paragraph 4.1.1 above are legally and validly issued, are held in the name of the Seller and, based on a reasonable independent review, counsel is of the opinion that Seller is in substantial compliance with said permits as of the date of the Opinion Letter. The Opinion Letter will be in a form acceptable to Idaho Power and will acknowledge that the attorney rendering the opinion understands that Idaho Power is relying on said opinion. Idaho Power's acceptance of the form will not be unreasonably withheld. The Opinion Letter will be governed by and shall be interpreted in accordance with the legal opinion accord of the American Bar Association Section of Business Law (1991).
- 4.1.3 Initial Capacity Determination - Submit to Idaho Power such data as Idaho Power may reasonably require to perform the Initial Capacity Determination. Such data will include but not be limited to, equipment specifications, prime mover data, resource characteristics, normal and/or average operating design conditions and Station Use data. Upon receipt of this information, Idaho Power will review the provided data and if necessary, request additional data to complete the Initial Capacity Determination within a

reasonable time.

- 4.1.4 Engineer's Certifications - Submit an executed Engineer's Certification of Design & Construction Adequacy and an Engineer's Certification of Operations and Maintenance (O&M) Policy as described in Commission Order No. 21690. These certificates will be in the form specified in Appendix C but may be modified to the extent necessary to recognize the different engineering disciplines providing the certificates.
- 4.1.5 Insurance - Submit written proof to Idaho Power of all insurance required in Article XIII.
- 4.1.6 Interconnection – Provide written confirmation from Idaho Power's Delivery Business Unit that Seller has satisfied all interconnection requirements.
- 4.1.7 Written Acceptance – Request and obtain written confirmation from Idaho Power that all conditions to acceptance of energy have been fulfilled. Such written confirmation shall be provided within a commercially reasonable time following the Seller's request and will not be unreasonably withheld by Idaho Power.

ARTICLE V: TERM AND OPERATION DATE

- 5.1 Term - Subject to the provisions of paragraph 5.2 below, this Agreement shall become effective on the date first written and shall continue in full force and effect for a period of twenty (20) Contract Years from the Operation Date.
- 5.2 Operation Date - The Operation Date may occur only after the Facility has achieved all of the following:
 - a) Achieved the First Energy Date.
 - b) Commission approval of this Agreement in a form acceptable to Idaho Power has been received.
 - c) Seller has demonstrated to Idaho Power's satisfaction that the Facility is complete and able to provide energy in a consistent, reliable and safe manner.
 - d) Seller has requested an Operation Date from Idaho Power in a written format.
 - e) Seller has received written confirmation from Idaho Power of the Operation Date.

This confirmation will not be unreasonably withheld by Idaho Power.

5.3 Seller shall cause the Facility to achieve the Operation Date on or before the Scheduled Operation Date. If the Operation Date occurs after the Scheduled Operation Date, Seller shall pay Idaho Power Delay Liquidated Damages. Delay Liquidated Damages will be calculated monthly as follows:

Delay Liquidated Damages are equal to ((Current month's Initial Year Net Energy Amount as specified in paragraph 6.2.1 divided by the number of days in the current month) multiplied by the current month's Delay Period) multiplied by the current month's Delay Price.

5.4 Delay Liquidated Damages will be calculated for a maximum of ninety (90) days past the Scheduled Operation Date. If Seller fails to achieve the Operation Date within ninety (90) days of the Scheduled Operation Date, Idaho Power may terminate this Agreement.

5.5 Seller shall pay Idaho Power any calculated Delay Liquidated Damages within five (5) business days of when Idaho Power calculates and presents any Delay Liquidated Damages billings to the Seller. Seller's failure to pay these damages within the specified time will be a Material Breach of this Agreement.

5.6 The Parties agree that the damages Idaho Power would incur due to delay in the Facility achieving the Operation Date on or before the Scheduled Operation Date would be difficult or impossible to predict with certainty, and that the Delay Liquidated Damages are an appropriate approximation of such damages.

ARTICLE VI: PURCHASE AND SALE OF NET ENERGY

6.1 Delivery and Acceptance of Net Energy - Except when either Party's performance is excused as provided herein, Idaho Power will purchase and Seller will sell all of the Net Energy to Idaho Power at the Point of Delivery. All Inadvertent Energy produced by the Facility will also be delivered by the Seller to Idaho Power at the Point of Delivery. At no time will the total amount of Net Energy and/or Inadvertent Energy produced by the Facility and delivered by the Seller to

the Point of Delivery exceed the Maximum Capacity Amount.

6.2 Net Energy Amounts - Seller intends to produce and deliver Net Energy in the following monthly amounts:

6.2.1 Initial Year Monthly Net Energy Amounts:

	<u>Month</u>	<u>kWh</u>
Season 1	March	4,560,300
	April	4,589,900
	May	4,278,500
Season 2	July	3,193,800
	August	3,048,400
	November	4,100,900
	December	4,402,300
Season 3	June	3,771,600
	September	3,368,800
	October	3,927,900
	January	4,176,000
	February	3,868,700

6.2.2 Ongoing Monthly Net Energy Amounts - Seller shall initially provide Idaho Power with one year of monthly generation estimates (Initial Year Monthly Net Energy Amounts) and beginning at the end of month nine and every three months thereafter provide Idaho Power with an additional three months of forward generation estimates. This information will be provided to Idaho Power by written notice in accordance with paragraph 25.1, no later than 5:00 PM of the 5th day following the end of the previous month. If the Seller does not provide the Ongoing Monthly Net Energy Amounts in a timely manner, Idaho Power will use the most recent 3 months of the Initial Year Monthly Net Energy Amounts specified in paragraph 6.2.1 for the next 3 months of monthly Net Energy amounts.

6.2.3 Seller's Adjustment of Net Energy Amount -

6.2.3.1 No later than the Operation Date, by written notice given to Idaho Power in accordance with paragraph 25.1, the Seller may revise all of the previously

provided Initial Year Monthly Net Energy Amounts.

6.2.3.2 Beginning with the end of the 3rd month after the Operation Date and at the end of every third month thereafter: (1) the Seller may not revise the immediate next three months of previously provided Net Energy Amounts, (2) but by written notice given to Idaho Power in accordance with paragraph 25.1, no later than 5:00 PM of the 5th day following the end of the previous month, the Seller may revise all other previously provided Net Energy Amounts. Failure to provide timely written notice of changed amounts will be deemed to be an election of no change.

6.2.4 Idaho Power Adjustment of Net Energy Amount – If Idaho Power is excused from accepting the Seller’s Net Energy as specified in paragraph 12.2.1 or if the Seller declares a Suspension of Energy Deliveries as specified in paragraph 12.3.1 and the Seller’s declared Suspension of Energy Deliveries is accepted by Idaho Power, the Net Energy Amount as specified in paragraph 6.2 for the specific month in which the reduction or suspension under paragraph 12.2.1 or 12.3.1 occurs will be reduced in accordance with the following:

Where:

NEA = Current Month’s Net Energy Amount (Paragraph 6.2)

SGU = a.) If Idaho Power is excused from accepting the Seller’s Net Energy as specified in paragraph 12.2.1 this value will be equal to the percentage of curtailment as specified by Idaho Power multiplied by the TGU as defined below.

b.) If the Seller declares a Suspension of Energy Deliveries as specified in paragraph 12.3.1 this value will be the sum of the individual generation units size ratings as specified in Appendix B that are impacted by the circumstances causing the Seller to declare a Suspension of Energy Deliveries.

TGU = Sum of all of the individual generator ratings of the generation units at this Facility as specified in Appendix B of this agreement.

RSH = Actual hours the Facility's Net Energy deliveries were either reduced or suspended under paragraph 12.2.1 or 12.3.1

TH = Actual total hours in the current month

Resulting formula being:

$$\text{Adjusted Net Energy Amount} = \text{NEA} - \left(\left(\frac{\text{SGU}}{\text{TGU}} \times \text{NEA} \right) \times \left(\frac{\text{RSH}}{\text{TH}} \right) \right)$$

This Adjusted Net Energy Amount will be used in applicable Surplus Energy calculations for only the specific month in which Idaho Power was excused from accepting the Seller's Net Energy or the Seller declared a Suspension of Energy.

- 6.3 Unless excused by an event of Force Majeure, Seller's failure to deliver Net Energy in any Contract Year in an amount equal to at least ten percent (10%) of the sum of the Initial Year Net Energy Amounts as specified in paragraph 6.2 shall constitute an event of default.

ARTICLE VII: PURCHASE PRICE AND METHOD OF PAYMENT

- 7.1 Net Energy Purchase Price – For all Net Energy, Idaho Power will pay the non-levelized energy price in accordance with Commission Order 29646 with seasonalization factors applied:

<u>Year</u>	Season 1 - (73.50 %)	Season 2 - (120.00 %)	Season 3 - (100.00 %)
	<u>Mills/kWh</u>	<u>Mills/kWh</u>	<u>Mills/kWh</u>
2007	38.73	63.23	52.69
2008	39.62	64.68	53.90
2009	40.53	66.17	55.14
2010	41.46	67.69	56.41
2011	42.42	69.25	57.71
2012	43.39	70.85	59.04
2013	44.39	72.48	60.40
2014	45.42	74.16	61.80
2015	46.47	75.86	63.22
2016	47.54	77.62	64.68
2017	48.63	79.40	66.17
2018	49.76	81.24	67.70
2019	50.91	83.11	69.26
2020	52.07	85.02	70.85
2021	53.28	86.99	72.49
2022	54.51	88.99	74.16

2023	55.76	91.04	75.87
2024	57.05	93.14	77.62
2025	58.37	95.29	79.41
2026	59.72	97.50	81.25
2027	61.09	99.74	83.12

7.2 Surplus Energy Price - For all Surplus Energy, Idaho Power shall pay to the Seller the current month's Market Energy Cost or the Net Energy Purchase Price specified in paragraph 7.1, whichever is lower.

7.3 Inadvertent Energy –

7.3.1 Inadvertent Energy is electric energy produced by the Facility, expressed in kWh, which the Seller delivers to Idaho Power at the Point of Delivery that exceeds 10,000 kW multiplied by the hours in the specific month in which the energy was delivered. (For example January contains 744 hours. 744 hours times 10,000 kW = 7,440,000 kWh. Energy delivered in January in excess of 7,440, 000 kWh in this example would be Inadvertent Energy.)

7.3.2 Although Seller intends to design and operate the Facility to generate no more than 10 average MW and therefore does not intend to generate Inadvertent Energy, Idaho Power will accept Inadvertent Energy that does not exceed the Maximum Capacity Amount but will not purchase or pay for Inadvertent Energy

7.4 Payment Due Date – Energy payments to the Seller will be disbursed within 30 days of the date which Idaho Power receives and accepts the documentation of the monthly Net Energy and Inadvertent Energy actually produced by the Seller's Facility and delivered to Idaho Power as specified in Appendix A.

7.5 Continuing Jurisdiction of the Commission – This Agreement is a special contract and, as such, the rates, terms and conditions contained in this Agreement will be construed in accordance with Idaho Power Company v. Idaho Public Utilities Commission and Afton Energy, Inc., 107 Idaho 781, 693 P.2d 427 (1984); Idaho Power Company v. Idaho Public Utilities Commission, 107 Idaho 1122, 695 P.2d 1 261 (1985); Afton Energy, Inc. v. Idaho Power Company, 111 Idaho 925,

729 P.2d 400 (1986); Section 210 of the Public Utilities Regulatory Policies Act of 1978 and 18 CFR §292.303-308.

ARTICLE VIII: ENVIRONMENTAL ATTRIBUTES

- 8.1 Idaho Power waives any claim to ownership of Environmental Attributes. Environmental Attributes include, but are not limited to, Green Tags, Green Certificates, Renewable Energy Credits (RECs) and Tradable Renewable Certificates (TRCs) directly associated with the production of energy from the Seller's Facility.

ARTICLE IX: FACILITY AND INTERCONNECTION

- 9.1 Design of Facility - Seller will design, construct, install, own, operate and maintain the Facility and any Seller-owned Interconnection Facilities so as to allow safe and reliable generation and delivery of Net Energy and Inadvertent Energy to the Idaho Power Point of Delivery for the full term of the Agreement.

ARTICLE X: METERING AND TELEMETRY

- 10.1 Metering and Telemetry - Idaho Power shall, for the account of Seller, provide, install, and maintain Metering Equipment to be located at a mutually agreed upon location to record and measure power flows to Idaho Power in accordance with Schedule 72. The Metering Equipment will be at the location and the type required to measure, record and report the Facility's Net Energy, Station Use, Inadvertent Energy and maximum energy deliveries (kW) in a manner to provide Idaho Power adequate energy measurement data to administer this Agreement and to integrate this Facility's energy production into the Idaho Power electrical system.

ARTICLE XI - RECORDS

- 11.1 Maintenance of Records - Seller shall maintain at the Facility or such other location mutually acceptable to the Parties adequate total generation, Net Energy, Station Use, Inadvertent Energy

and maximum generation (kW) records in a form and content recommended by Idaho Power.

- 11.2 Inspection - Either Party, after reasonable notice to the other Party, shall have the right, during normal business hours, to inspect and audit any or all generation, Net Energy, Station Use, Inadvertent Energy and maximum generation (kW) records pertaining to the Seller's Facility.

ARTICLE XII: OPERATIONS

- 12.1 Communications - Idaho Power and the Seller shall maintain appropriate operating communications through Idaho Power's Designated Dispatch Facility in accordance with Appendix A of this Agreement.

- 12.2 Energy Acceptance -

12.2.1 Idaho Power shall be excused from accepting and paying for Net Energy or accepting Inadvertent Energy produced by the Facility and delivered by the Seller to the Point of Delivery, if it is prevented from doing so by an event of Force Majeure, or temporary disconnection of the Facility in accordance with Schedule 72. If, for reasons other than an event of Force Majeure, a temporary disconnection under Schedule 72 exceeds twenty (20) days, beginning with the twenty-first day of such interruption, curtailment or reduction, Seller will be deemed to be delivering Net Energy at a rate equivalent to the pro rata daily average of the amounts specified for the applicable month in paragraph 6.2. Idaho Power will notify Seller when the interruption, curtailment or reduction is terminated.

12.2.2 If, in the reasonable opinion of Idaho Power, Seller's operation of the Facility or Interconnection Facilities is unsafe or may otherwise adversely affect Idaho Power's equipment, personnel or service to its customers, Idaho Power may temporarily disconnect the Facility from Idaho Power's transmission / distribution system as specified within Schedule 72 or take such other reasonable steps as Idaho Power deems appropriate.

12.2.3 Under no circumstances will the Seller deliver Net Energy and/or Inadvertent Energy from the Facility to the Point of Delivery in an amount that exceeds the Maximum Capacity Amount. Seller's failure to limit deliveries to the Maximum Capacity Amount will be a Material Breach of this Agreement.

12.3 Seller Declared Suspension of Energy Deliveries

12.3.1 If the Seller's Facility experiences a forced outage due to equipment failure which is not caused by an event of Force Majeure or by neglect, disrepair or lack of adequate preventative maintenance of the Seller's Facility, Seller may, after giving notice as provided in paragraph 12.3.2 below, temporarily suspend all deliveries of Net Energy to Idaho Power from the Facility or from individual generation unit(s) within the Facility impacted by the forced outage for a period of not less than 48 hours to correct the forced outage condition ("Declared Suspension of Energy Deliveries"). The Seller's Declared Suspension of Energy Deliveries will begin at the start of the next full hour following the Seller's telephone notification as specified in paragraph 12.3.2 and will continue for the time as specified (not less than 48 hours) in the written notification provided by the Seller. In the month(s) in which the Declared Suspension of Energy occurred, the Net Energy Amount will be adjusted as specified in paragraph 6.2.4.

12.3.2 If the Seller desires to initiate a Declared Suspension of Energy Deliveries as provided in paragraph 12.3.1, the Seller will notify the Designated Dispatch Facility by telephone. The beginning hour of the Declared Suspension of Energy Deliveries will be at the earliest the next full hour after making telephone contact with Idaho Power. The Seller will, within 24 hours after the telephone contact, provide Idaho Power a written notice in accordance with Article XXV that will contain the beginning hour and duration of the Declared Suspension of Energy Deliveries and a description of the conditions that caused the Seller to initiate a Declared Suspension of Energy Deliveries. Idaho Power will review the documentation provided by the Seller to determine Idaho Power's acceptance of the described forced outage as qualifying for a Declared Suspension of Energy

Deliveries as specified in paragraph 12.3.1. Idaho Power's acceptance of the Seller's forced outage as an acceptable forced outage will be based upon the clear documentation provided by the Seller that the forced outage is not due to an event of Force Majeure or by neglect, disrepair or lack of adequate preventative maintenance of the Seller's Facility.

- 12.4 Scheduled Maintenance – On or before January 31 of each calendar year, Seller shall submit a written proposed maintenance schedule of significant Facility maintenance for that calendar year and Idaho Power and Seller shall mutually agree as to the acceptability of the proposed schedule. The Parties' determination as to the acceptability of the Seller's timetable for scheduled maintenance will take into consideration Prudent Electrical Practices, Idaho Power system requirements and the Seller's preferred schedule. Neither Party shall unreasonably withhold acceptance of the proposed maintenance schedule.
- 12.5 Maintenance Coordination - The Seller and Idaho Power shall, to the extent practical, coordinate their respective line and Facility maintenance schedules such that they occur simultaneously.
- 12.6 Contact Prior to Curtailment - Idaho Power will make a reasonable attempt to contact the Seller prior to exercising its rights to interrupt interconnection or curtail deliveries from the Seller's Facility. Seller understands that in the case of emergency circumstances, real time operations of the electrical system, and/or unplanned events Idaho Power may not be able to provide notice to the Seller prior to interruption, curtailment, or reduction of electrical energy deliveries to Idaho Power.

ARTICLE XIII: INDEMNIFICATION AND INSURANCE

- 13.1 Indemnification - Each Party shall agree to hold harmless and to indemnify the other Party, its officers, agents, affiliates, subsidiaries, parent company and employees against all loss, damage, expense and liability to third persons for injury to or death of person or injury to property, proximately caused by the indemnifying Party's construction, ownership, operation or maintenance of, or by failure of, any of such Party's works or facilities used in connection with this Agreement. The indemnifying Party shall, on the other Party's request, defend any suit

asserting a claim covered by this indemnity. The indemnifying Party shall pay all costs, including reasonable attorney fees that may be incurred by the other Party in enforcing this indemnity.

13.2 Insurance - During the term of this Agreement, Seller shall secure and continuously carry the following insurance coverage:

13.2.1 Comprehensive General Liability Insurance for both bodily injury and property damage with limits equal to \$1,000,000, each occurrence, combined single limit. The deductible for such insurance shall be consistent with current Insurance Industry Utility practices for similar property.

13.2.2 The above insurance coverage shall be placed with an insurance company with an A.M. Best Company rating of A- or better and shall include:

(a) An endorsement naming Idaho Power as an additional insured and loss payee as applicable; and

(b) A provision stating that such policy shall not be canceled or the limits of liability reduced without sixty (60) days' prior written notice to Idaho Power.

13.3 Seller to Provide Certificate of Insurance - As required in paragraph 4.1.5 herein and annually thereafter, Seller shall furnish Idaho Power a certificate of insurance, together with the endorsements required therein, evidencing the coverage as set forth above.

13.4 Seller to Notify Idaho Power of Loss of Coverage - If the insurance coverage required by paragraph 13.2 shall lapse for any reason, Seller will immediately notify Idaho Power in writing. The notice will advise Idaho Power of the specific reason for the lapse and the steps Seller is taking to reinstate the coverage. Failure to provide this notice and to expeditiously reinstate or replace the coverage will constitute a Material Breach of this Agreement.

ARTICLE XIV: FORCE MAJEURE

14.1 As used in this Agreement, "Force Majeure" or "an event of Force Majeure" means any cause beyond the control of the Seller or of Idaho Power which, despite the exercise of due diligence, such Party is unable to prevent or overcome. Force Majeure includes, but is not limited to, acts of

God, fire, flood, storms, wars, hostilities, civil strife, strikes and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, or changes in law or regulation occurring after the Operation Date, which, by the exercise of reasonable foresight such party could not reasonably have been expected to avoid and by the exercise of due diligence, it shall be unable to overcome. If either Party is rendered wholly or in part unable to perform its obligations under this Agreement because of an event of Force Majeure, both Parties shall be excused from whatever performance is affected by the event of Force Majeure, provided that:

- (1) The non-performing Party shall, as soon as is reasonably possible after the occurrence of the Force Majeure, give the other Party written notice describing the particulars of the occurrence.
- (2) The suspension of performance shall be of no greater scope and of no longer duration than is required by the event of Force Majeure.
- (3) No obligations of either Party which arose before the occurrence causing the suspension of performance and which could and should have been fully performed before such occurrence shall be excused as a result of such occurrence.

ARTICLE XV: LIABILITY; DEDICATION

15.1 Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public or affect the status of Idaho Power as an independent public utility corporation or Seller as an independent individual or entity.

ARTICLE XVI: SEVERAL OBLIGATIONS

16.1 Except where specifically stated in this Agreement to be otherwise, the duties, obligations and liabilities of the Parties are intended to be several and not joint or collective. Nothing contained

in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or impose a trust or partnership duty, obligation or liability on or with regard to either Party. Each Party shall be individually and severally liable for its own obligations under this Agreement.

ARTICLE XVII: WAIVER

- 17.1 Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or other matter.

ARTICLE XVIII: CHOICE OF LAWS AND VENUE

- 18.1 This Agreement shall be construed and interpreted in accordance with the laws of the State of Idaho without reference to its choice of law provisions.
- 18.2 Venue for any litigation arising out of or related to this Agreement will lie in the District Court of the Fourth Judicial District of Idaho in and for the County of Ada.

ARTICLE XIX: DISPUTES AND DEFAULT

- 19.1 Disputes - All disputes related to or arising under this Agreement, including, but not limited to, the interpretation of the terms and conditions of this Agreement, will be submitted to the Commission for resolution.
- 19.2 Notice of Default -
- 19.2.1 Defaults. If either Party fails to perform any of the terms or conditions of this Agreement (an "event of default"), the nondefaulting Party shall cause notice in writing to be given to the defaulting Party, specifying the manner in which such default occurred. If the defaulting Party shall fail to cure such default within the sixty (60) days after service of such notice, or if the defaulting Party reasonably demonstrates to the other Party that the default can be cured within a commercially reasonable time but not within such sixty (60) day period and then fails to diligently

pursue such cure, then, the nondefaulting Party may, at its option, terminate this Agreement and/or pursue its legal or equitable remedies.

19.2.2 Material Breaches – The notice and cure provisions in paragraph 19.2.1 do not apply to defaults identified in this Agreement as Material Breaches. Material Breaches must be cured as expeditiously as possible following occurrence of the breach.

19.3 Security for Performance - Prior to the Operation Date and thereafter for the full term of this Agreement, Seller will provide Idaho Power with the following:

19.3.1 Insurance - Evidence of compliance with the provisions of paragraph 13.2. If Seller fails to comply, such failure will be a Material Breach and may only be cured by Seller supplying evidence that the required insurance coverage has been replaced or reinstated;

19.3.2 Engineer's Certifications - Every three (3) years after the Operation Date, Seller will supply Idaho Power with a Certification of Ongoing Operations and Maintenance (O & M) from a Registered Professional Engineer licensed in the State of Idaho, which Certification of Ongoing O & M shall be in the form specified in Appendix C. Seller's failure to supply the required certificate will be an event of default. Such a default may only be cured by Seller providing the required certificate; and

19.3.3 Licenses and Permits - During the full term of this Agreement, Seller shall maintain compliance with all permits and licenses described in paragraph 4.1.1 of this Agreement. In addition, Seller will supply Idaho Power with copies of any new or additional permits or licenses. At least every fifth Contract Year, Seller will update the documentation described in Paragraph 4.1.1. If at any time Seller fails to maintain compliance with the permits and licenses described in paragraph 4.1.1 or to provide the documentation required by this paragraph, such failure will be an event of default and may only be cured by Seller submitting to Idaho Power evidence of compliance from the permitting agency.

ARTICLE XX: GOVERNMENTAL AUTHORIZATION

- 20.1 This Agreement is subject to the jurisdiction of those governmental agencies having control over either Party of this Agreement.

ARTICLE XXI: COMMISSION ORDER

- 21.1 This Agreement shall become finally effective upon the Commission's approval of all terms and provisions hereof without change or condition and declaration that all payments to be made to Seller hereunder shall be allowed as prudently incurred expenses for ratemaking purposes.

ARTICLE XXII: SUCCESSORS AND ASSIGNS

- 22.1 This Agreement and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties hereto, except that no assignment hereof by either Party shall become effective without the written consent of both Parties being first obtained. Such consent shall not be unreasonably withheld. Notwithstanding the foregoing, any party which Idaho Power may consolidate, or into which it may merge, or to which it may convey or transfer substantially all of its electric utility assets, shall automatically, without further act, and without need of consent or approval by the Seller, succeed to all of Idaho Power's rights, obligations and interests under this Agreement. This article shall not prevent a financing entity with recorded or secured rights from exercising all rights and remedies available to it under law or contract. Idaho Power shall have the right to be notified by the financing entity that it is exercising such rights or remedies.

ARTICLE XXIII: MODIFICATION

- 23.1 No modification to this Agreement shall be valid unless it is in writing and signed by both Parties and subsequently approved by the Commission.

ARTICLE XXIV: TAXES

24.1 Each Party shall pay before delinquency all taxes and other governmental charges which, if failed to be paid when due, could result in a lien upon the Facility or the Interconnection Facilities.

ARTICLE XXV: NOTICES

25.1 All written notices under this agreement may be sent via e-mail and then confirmed by US Mail. All written notices shall be directed as follows and shall be considered delivered when deposited in the U. S. Mail, first-class postage prepaid, as follows:

To Seller:

Original document to:

Idaho Winds LLC
Attn: Rick Koebbe, President
5356 N. Cattail Way
Boise, Idaho 83714
E-mail: Rk@powerworks.com

To Idaho Power:

Original document to:

Vice President, Power Supply
Idaho Power Company
P O Box 70
Boise, Idaho 83707

Copy of document to:

Cogeneration and Small Power Production
Idaho Power Company
P O Box 70
Boise, Idaho 83707
E-Mail: Contact Idaho Power to get the current e-mail address.

ARTICLE XXVI: ADDITIONAL TERMS AND CONDITIONS

26.1 This Agreement includes the following appendices, which are attached hereto and included by reference:

Appendix A	-	Generation Scheduling and Reporting
Appendix B	-	Facility and Point of Delivery
Appendix C	-	Engineer's Certifications

ARTICLE XXVII: SEVERABILITY

27.1 The invalidity or unenforceability of any term or provision of this Agreement shall not affect the validity or enforceability of any other terms or provisions and this Agreement shall be construed in all other respects as if the invalid or unenforceable term or provision were omitted.

ARTICLE XXVIII: COUNTERPARTS

28.1 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

ARTICLE XXIX: ENTIRE AGREEMENT

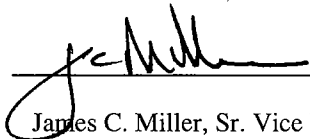
29.1 This Agreement constitutes the entire Agreement of the Parties concerning the subject matter hereof and supersedes all prior or contemporaneous oral or written agreements between the Parties concerning the subject matter hereof.

IN WITNESS WHEREOF, The Parties hereto have caused this Agreement to be executed in their respective names on the dates set forth below:


Idaho Power Company

Idaho Winds LLC

By


James C. Miller, Sr. Vice President, Power Supply

By


Rick Koebbe, President

Dated

DEC 13, 2006
"Idaho Power"

Dated

12 DEC 2006
"Seller"

APPENDIX A

GENERATION SCHEDULING AND REPORTING

A -1 MONTHLY POWER PRODUCTION AND SWITCHING REPORT

At the end of each month the following required documentation will be submitted to:

Idaho Power Company
Attn: Cogeneration and Small Power Production
P O Box 70
Boise, Idaho 83707

The Meter readings required on this report will be the reading on the Idaho Power Meter Equipment measuring the Facility's total energy production, Station Usage, Inadvertent Energy delivered to Idaho Power and the maximum generated energy (kW) as recorded on the Meter Equipment and/or any other required energy measurements to adequately administer this Agreement.

Idaho Power Company

Cogeneration and Small Power Production

MONTHLY POWER PRODUCTION AND SWITCHING REPORT

Month _____

Year _____

Project Name _____

Project Number: _____

Address _____

Phone Number: _____

City _____

State _____

Zip _____

	<u>Facility Output</u>	<u>Station Usage</u>	<u>Station Usage</u>	<u>Metered Maximum Generation</u>
Meter Number:	_____	_____	_____	kW
End of Month kWh Meter Reading:	_____	_____	_____	
Beginning of Month kWh Meter:	_____	_____	_____	
Difference:	_____	_____	_____	
Times Meter Constant:	_____	_____	_____	<u>Net Generation</u>
kWh for the Month:	_____ - _____	_____ - _____	= _____	
Metered Demand:	_____	_____	_____	

Breaker Opening Record

Breaker Closing Record

<u>Date</u>	<u>Time</u>	<u>Meter</u>

*	<u>Reason</u>

<u>Date</u>	<u>Time</u>	<u>Meter</u>

- * **Breaker Opening Reason Codes**
- 1 Lack of Adequate Prime Mover
 - 2 Forced Outage of Facility
 - 3 Disturbance of IPCo System
 - 4 Scheduled Maintenance
 - 5 Testing of Protection Systems
 - 6 Cause Unknown
 - 7 Other (Explain)

I hereby certify that the above meter readings are true and correct as of Midnight on the last day of the above month and that the switching record is accurate and complete as required by the Firm Energy Sales Agreement to which I am a Party.

Signature

Date

Idaho Power Contact Information

Daily Energy Production Reporting

Call daily by 10 a.m., 1-800-356-4328 or 1-800-635-1093 and leave the following information:

- Project Identification - Project Name and Project Number
- Current Meter Reading
- Estimated Generation for the current day
- Estimated Generation for the next day

Planned and Unplanned Project outages

Call 1-800-345-1319 and leave the following information:

- Project Identification - Project Name and Project Number
- Approximate time outage occurred
- Estimated day and time of project coming back online

Seller's Contact Information

24-Hour Project Operational Contact

Name: _____
Telephone Number: _____
Cell Phone: _____

Project On-site Contact information

Name: _____
Telephone Number: _____
Cell Phone: _____

APPENDIX B

FACILITY AND POINT OF DELIVERY

PROJECT NO. 21615200

ALKALI WIND FARM

B-1 DESCRIPTION OF FACILITY

The Facility will consist of 12 GE wind turbines with individual generator ratings of 1.5 MW for each unit, for a total Facility generator rating of 18 MW. Seller may substitute at any time prior to the Operation Date, a different manufacturer and/or model wind turbine provided that the aggregate nameplate rating of the Facility does not exceed 18 MW.

B-2 LOCATION OF FACILITY

Near: Approximately 6 miles northwest of Glens Ferry, ID, nearest intersection Bennett Road (Old Oregon Trail Road) at W. Wicher Road.

Section: 16, Township: T5S, Range: R9E Quarter: Northwest (T5S) County: Elmore, Idaho.

B-3 SCHEDULED FIRST ENERGY AND OPERATION DATE

Seller has selected December 30, 2007 as the estimated Scheduled First Energy Date.

Seller has selected December 31, 2007 as the estimated Scheduled Operation Date.

In making these selections, Seller recognizes that adequate testing of the Facility and completion of all requirements in paragraph 5.2 of this Agreement must be completed prior to the project being granted an Operation Date. Idaho Power, based on the information supplied by the Seller, will schedule its construction in accordance with Schedule 72.

B-4 MAXIMUM CAPACITY AMOUNT: This value will be 18 MW which is consistent with the value provided by the Seller to Idaho Power in accordance with Schedule 72. This value is the maximum energy (MW) that potentially could be delivered by the Seller's Facility to the Idaho

Power electrical system at any moment in time.

B-5 POINT OF DELIVERY

“Point of Delivery” means, unless otherwise agreed by both Parties, the point of where the Seller’s Facility’s energy is delivered to the Idaho Power electrical system. Schedule 72 will determine the specific Point of Delivery for this Facility. The Point of Delivery identified by Schedule 72 will become an integral part of this Agreement.

B-6 LOSSES

If the Idaho Power Metering equipment is capable of measuring the exact energy deliveries by the Seller to the Idaho Power electrical system at the Point of Delivery, no Losses will be calculated for this Facility. If the Idaho Power Metering is unable to measure the exact energy deliveries by the Seller to the Idaho Power electrical system at the Point of Delivery, a Losses calculation will be established to measure the energy losses (kWh) between the Seller’s Facility and the Idaho Power Point of Delivery. This loss calculation will be initially set at 2% of the kWh energy production recorded on the Facility generation metering equipment. At such time as Seller provides Idaho Power with the electrical equipment specifications (transformer loss specifications, conductor sizes, etc) of all of the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power will configure a revised loss calculation formula to be agreed to by both parties and used to calculate the kWh Losses for the remaining term of the Agreement. If at anytime during the term of this Agreement, Idaho Power determines that the loss calculation does not correctly reflect the actual kWh losses attributed to the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power may adjust the calculation and retroactively adjust the previous months’ kWh loss calculations.

B-7 METERING AND TELEMETRY

Schedule 72 will determine the specific metering and telemetry requirements for this Facility. At

the minimum the Metering Equipment and Telemetry equipment must be able to provide and record hourly energy deliveries to the Point of Delivery and any other energy measurements required to administer this Agreement. These specifications will include but not be limited to equipment specifications, equipment location, Idaho Power provided equipment, Seller provided equipment, and all costs associated with the equipment, design and installation of the Idaho Power provided equipment. Seller will arrange for and make available at Seller's cost communication circuit(s) compatible to Idaho Power's communications equipment and dedicated to Idaho Power's use terminating at the Idaho Power facilities capable of providing Idaho Power with continuous instantaneous information on the Facilities energy production. Idaho Power provided equipment will be owned and maintained by Idaho Power, with total cost of purchase, installation, operation, and maintenance, including administrative cost to be reimbursed to Idaho Power by the Seller. Payment of these costs will be in accordance with Schedule 72 and the total metering cost will be included in the calculation of the Monthly Operation and Maintenance Charges specified in Schedule 72.

APPENDIX C
ENGINEER'S CERTIFICATION
OF
OPERATIONS & MAINTENANCE POLICY

The undersigned _____, on behalf of himself and _____, hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Firm Energy Sales Agreement, hereinafter "Agreement," between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as IPCo Facility No. _____ and is hereinafter referred to as the "Project."
4. That the Project, which is commonly known as the _____, is located in Section ____ Township _____, Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a twenty (20) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has reviewed and/or supervised the review of the Policy for Operation and Maintenance ("O&M") for this Project and it is his professional opinion that, provided said Project has been designed and built to appropriate standards, adherence to said O&M Policy will result in the

Project's producing at or near the design electrical output, efficiency and plant factor for a twenty (20) year period.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.

10. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____

(P.E. Stamp)

Date _____

APPENDIX C

ENGINEER'S CERTIFICATION

OF

ONGOING OPERATIONS AND MAINTENANCE

The undersigned _____, on behalf of himself and _____ hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Firm Energy Sales Agreement, hereinafter "Agreement," between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as IPCo Facility No. _____ and hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the _____ Project, is located at _____.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a twenty (20) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has made a physical inspection of said Project, its operations and maintenance records since the last previous certified inspection. It is Engineer's professional opinion, based on the Project's appearance, that its ongoing O&M has been substantially in accordance with said O&M Policy; that it is in reasonably good operating condition; and that if adherence to said O&M Policy continues, the Project will continue producing at or near its design electrical output, efficiency and plant factor for the

remaining _____ years of the Agreement.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.

10. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____

(P.E. Stamp)

Date _____

APPENDIX C
ENGINEER'S CERTIFICATION
OF
DESIGN & CONSTRUCTION ADEQUACY

The undersigned _____, on behalf of himself and _____, hereinafter collectively referred to as "Engineer", hereby states and certifies to Idaho Power as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Idaho.
2. That Engineer has reviewed the Firm Energy Sales Agreement, hereinafter "Agreement", between Idaho Power as Buyer, and _____ as Seller, dated _____.
3. That the cogeneration or small power production project, which is the subject of the Agreement and this Statement, is identified as IPCo Facility No _____ and is hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the _____ Project, is located in Section _____, Township _____, Range _____, Boise Meridian, _____ County, Idaho.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a _____ (____) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project and has made the analysis of the plans and specifications independently.
8. That Engineer has reviewed the engineering design and construction of the Project, including the civil work, electrical work, generating equipment, prime mover conveyance system, Seller furnished Interconnection Facilities and other Project facilities and equipment.

9. That the Project has been constructed in accordance with said plans and specifications, all applicable codes and consistent with Prudent Electrical Practices as that term is described in the Agreement.

10. That the design and construction of the Project is such that with reasonable and prudent operation and maintenance practices by Seller, the Project is capable of performing in accordance with the terms of the Agreement and with Prudent Electrical Practices for a _____ (_____) year period.

11. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, in interconnecting the Project with its system, is relying on Engineer's representations and opinions contained in this Statement.

12. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By _____
(P.E. Stamp)

Date _____

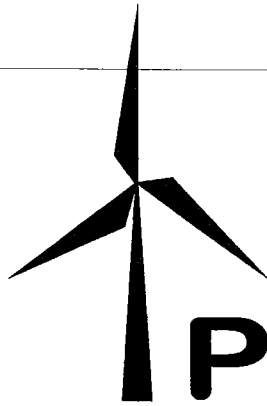
BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION

CASE NO. IPC-E-06-36

IDAHO POWER COMPANY

ATTACHMENT NO. 2

APPLICATION



Pacific Winds LLC

19 August 2005

hand-delivered

Idaho Power Company
1221 West Idaho Street
Boise, Idaho 83702

Attention: Mr. Randy Allphin, Contract Administrator

Subject: PPA Contract PURPA Eligibility Criteria
18 MW Alkali Wind Project

Dear Randy:

As mentioned during our telephone conversation, I have been traveling and did not receive your letter dated August 8, 2005 until I returned from vacation on August 16, 2005. Although it was impossible to meet your August 15, 2005 deadline for submittal of the information and documentation contained in your letter, we have responded as quickly as possible with the enclosed information.

Pursuant to your August 8, 2005 letter (attached for reference) outlining the PURPA QF power purchase agreement ("PPA") eligibility criteria for wind generation projects greater than 100 kW, as recently established by the Idaho Public Utilities Commission ("IPUC") in its Order No. 29839, please find attached the following information and documentation concerning our 18 MW Alkali wind project. We believe that the following will demonstrate that this project meets the IPUC's eligibility criteria for PURPA wind generation greater than 100 kW.

1.a Submittal of a signed PPA. As you know, on June 14, 2005, we e-mailed Idaho Power Company ("IPC") an electronic file of the completed PPA "ready to sign", attached for reference. The PPA would have been signed by us immediately upon return from IPC, however, this did not happen because IPC subsequently filed a petition with IPUC on June 17, 2005 to suspend its obligation to enter into new wind power QF contracts. The foregoing was documented in our July 1, 2005 letter to IPUC, which IPC received a copy, attached for reference.

1.b Submittal of a completed Application for Interconnection. We submitted a generation interconnection application on January 31, 2005 for a 10 MW project along with a

\$2,000 initial feasibility analysis fee, attached for reference. We withdrew this application on May 26, 2005 at the recommendation of IPC's transmission group because we increased the project size to 18 MW, consistent with our PPA request—IPC's transmission group said that we could not modify our existing application, but instead, must re-file a new application, even though it's the same project. However, we were waiting to submit a revised 18 MW generation interconnection application until the execution of the PPA contract because if IPC, for some unknown reason, would not sign the PPA, then we would have lost our \$10,000 application fee deposit.

2.a FERC QF certificate for the project. A copy of FERC QF Self-certification (Docket No. QF05-53, dated January 25, 2005) was submitted to IPC on January 31, 2005 (attached for reference), along with the project's generation interconnection application. You acknowledged receipt of this documentation in your letter. As you know, we discussed the timing to increase the FERC QF size from 10 MW to 18 MW, but you said it was unimportant to IPC until the project was ready to startup in 2007, i.e., the FERC QF filing was important but the project size was not, until later. As background, we initially began with a 10 MW project size because we believed that the IPUC QF contracts limited us to 10 MW, but we learned later that it was 10 MW monthly average, which allowed us to increase the project size to 18 MW.

2.b Wind study for the project. Please find attached excerpts from our confidential long-term wind study report for this project dated March 10, 2005 as prepared by WindLogics Inc. Furthermore, we have a 50 meter meteorological tower installed at the project site collecting wind data. All information confirms the economic feasibility of the proposed wind project under the Idaho published avoided cost rates as of June 2004.

2.c Project and access road site control. Please find attached excerpts from our confidential 35-year land lease agreement dated January 21, 2005 for this project.

2.d Signed contract for wind turbines. This project has a PPA on-line date of September 2007. It is customary to enter into a contract for the supply of wind turbines approximately one year before project startup, when issues that affect the details of the supply order have been addressed and resolved—issues relating to permitting, utility interconnection, site engineering, and turbine supply availability, to name just a few. It is not practical or reasonable to require a signed wind turbine supply contract two years in advance of startup, as you suggest. Furthermore, as an alternative, as provided for in our permit application, we could use our existing 100 kW wind turbines currently installed at Altamont Pass, California (we currently own 900 x 100 kW wind turbines) for this project, and therefore, a signed wind turbine supply contract is not necessary.

2.e Project financing. Please find attached a financing commitment letter for this project dated June 15, 2005 from our lender, Trust Company of the West.

2.f Permitting and licensing. Please find attached copies of the applicable Elmore County permit applications dated May 10, 2005 for this project (conditional use, variance, zoning, and zoning change permits). We have had a series of meetings with the Elmore County Growth and Development Director, and we understand it will require only about three months to obtain these permits.

-- The remainder of this page left intentionally blank --

Thank you for your attention to this matter and please contact me if you have any questions.

We look forward to hearing from you.

Sincerely,

Pacific Winds LLC



Rick Koebbe
President

Attachments

cc: Mr. Rick Sterling, Idaho Public Utilities Commission (hand-delivered)

BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION

CASE NO. IPC-E-06-36

IDAHO POWER COMPANY

ATTACHMENT NO. 3

APPLICATION

November 17, 2006

Randy C. Allphin
Contract Administrator

Idaho Winds LLC
Attn: Rick Koebbe, President
5356 N. Cattail Way
Boise, ID 83714

E-mail Copy: Rick Koebbe – rk@powerworks.com

Original: US Mail

RE: **Alkali and the Black Mesa Wind Farm**
Entitlement to Published Avoided Cost Rates.

Dear Mr Koebbe;

As specified and agreed to in the letter agreement between Idaho Power and Idaho Winds LLC, dated November 15, 2006, there were various requirements that Idaho Winds LLC needed to complete in order for Idaho Power to provide Firm Energy Agreements for these projects. Summarized below are these requirements and the status as of the date of this letter.

1.) IPUC approval required –

Upon execution of final agreements for these projects by both parties, Idaho Power will file the agreements with the IPUC seeking their approval. Only after IPUC approval has been received as specified in the agreements shall the agreements be considered effective and binding on both parties.

2.) By December 15, 2006

a.) Wind Turbine Supply

Idaho Wind LLC has provided Idaho Power with documentation from GE Energy that GE will supply wind turbines for these projects in a time frame to meet the required 2007 project on line date.

b.) Financing Secured

Idaho Wind LLC has provided Idaho Power Company a letter from Trust Company of West ("TCW"), that TCW will provide the financing for these projects as they had previously advised..

c.) Interconnection

Idaho Wind LLC has provided a copy of a cover letter sent to the Idaho Power interconnection group which indicates that interconnection applications have been made. In addition, the Idaho Power interconnection personnel have confirmed that the applications submitted are complete.

As of the date of this letter, Idaho Power confirms that all items required to be completed by November 15, 2006 have been satisfied. Idaho Power will prepare a draft firm energy sales agreement for Idaho Wind LLC's review.

If you have any questions please contact me at your convenience.

Very truly yours,



Randy C. Allphin
Idaho Power Company
Contract Administrator

CC: Mark Stokes (IPCo)
Bart Kline (IPCo)
Rick Sterling (IPUC)
Scott Woodbury (IPUC)

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR) **CASE NO. IPC-E-06-36**
APPROVAL OF A POWER PURCHASE)
AGREEMENT WITH IDAHO WINDS, LLC) **ORDER NO. 30253**
)

On December 26, 2006, Idaho Power Company (“Idaho Power” or “Company”) filed an Application with the Commission requesting approval of a 20-year Firm Energy Sales Agreement between Idaho Power and Idaho Winds LLC dated December 12, 2006 (“Agreement”).

On January 19, 2007, the Commission issued a Notice of Application and Modified Procedure, and solicited comments from interested parties. Order No. 30221. Staff timely filed comments, as well as two members of the public. Idaho Winds filed comments in response on February 12, 2007.

BACKGROUND

On August 4, 2005, the Idaho Public Utilities Commission (“Commission”) in Case No. IPC-E-05-22, Order No. 29839, reduced the eligibility cap for avoided cost published rates for non-firm wind projects from 10 aMW to 100 kW, required individual negotiation for larger wind qualifying facilities (QFs), and established criteria for assessing QF contract entitlement. Reference Public Utility Regulatory Policies Act of 1978 (PURPA). By Commission Order No. 29872 the date for grandfathering eligibility was changed from July 1, 2004, the Notice of Petition date, to August 4, 2005, the date of Interlocutory Order No. 29839.

THE AGREEMENT

According to the Application, the wind generating facility is known as the Alkali Wind Farm Facility (“Facility”) and will be located approximately six miles northwest of Glens Ferry in Elmore County, Idaho. Idaho Winds warrants the Facility will be a qualified small power production facility (QF) under the applicable provisions of the Public Utility Regulatory Policies Act of 1978 (PURPA). The Facility will consist of 12 GE wind turbines with individual generator ratings of 1.5 MW for each unit, for a total facility nameplate generator rating of 18 MW. The Agreement contains the non-levelized, published avoided cost rates set forth in Order No. 29391. Under normal and/or average operating conditions, Idaho Winds will not generate

more than 10 aMW on a monthly basis. Energy delivered in excess of this monthly amount is Inadvertent Energy. Idaho Power will accept Inadvertent Energy that does not exceed the maximum capacity amount (18 MW) but will not purchase or pay for Inadvertent Energy. Agreement ¶ 7.3.2.

Based on Idaho Power's review of the information provided by the developer and in light of the procedure the Commission accepted in Cassia Wind Order No. 29954, Case No. IPC-E-05-35, Idaho Power averred that it would be reasonable to grandfather the Facility based on satisfaction of the criteria identified by the Commission in Order No. 29839, Case No. IPC-E-05-22. In Order No. 29839, the Commission established primary and secondary criteria to consider when evaluating whether a site should be grandfathered. Order No. 29839 at 10.

The primary criteria to determine project eligibility are: (1) submittal of a signed power purchase agreement to the utility, or (2) submittal to the utility of a completed Application for Interconnection Study and payment of fee. *Id.* According to the subject Application, Idaho Winds submitted a signed Firm Energy Sales Agreement to Idaho Power for the Facility. In addition, Idaho Winds submitted a generation interconnection study for the Facility on January 31, 2005 for a 10 MW project along with a \$2,000 initial feasibility analysis fee. Idaho Power asserted that this threshold criteria is, therefore, satisfied.

The secondary criteria is that the QF demonstrate other indicia of substantial progress or maturity, usually by showing: (1) a wind study demonstrating a viable site for the project, (2) a signed contract for wind turbines, (3) arranged financing for the project, and/or (4) related progress on the Facility permitting and license path. *Id.* The Application states that Idaho Winds wrote a letter to Idaho Power on August 15, 2005 describing the status of the Facility. As of August 4, 2005, Idaho Winds had obtained firm commitments to finance the Facility. Idaho Winds also had made substantial progress on the other criteria, except for the acquisition of turbines. At this time, Idaho Winds has obtained a firm commitment for turbines for the Facility.

Idaho Winds selected December 30, 2007 as the Scheduled First Energy Date and December 31, 2007 as the Scheduled Operation Date. Section 24 of the Agreement provides that the Agreement will not become effective until the Commission has approved all of the Agreement's terms and conditions and declared that all payments Idaho Power makes to Idaho Winds for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.

Idaho Power requests that the Commission issue an Order approving the Firm Energy Sales Agreement and declaring that all payments for purchases of energy under the Agreement be allowed as prudently incurred expenses for ratemaking purposes.

COMMENTS

Public Comments

Two comments were filed by members of the public. One commenter supported the Application and the Company's purchase of wind-generated power. The other commenter expressed concern that wind farms may not receive the previously published prices, and noted her belief that the Company may be "sabotaging clean energy solutions."

Staff Comments

Staff reviewed the information provided by the project developer to Idaho Power to support its claim that it should be grandfathered. Based on Staff's own review of the Facility's progress with regard to the primary and secondary grandfathering criteria, Staff believes that the Facility should be grandfathered.

In addition, Staff noted three provisions in the Agreement that distinguish it from other recent PURPA agreements:

1. Online Delay Damages

In the contract negotiations for this project, Idaho Power and Idaho Winds agreed that an on-line date of December 2007 is crucial to demonstrate that the project was a viable project in August of 2005. This Agreement contains delay damage provisions that require the project to pay Idaho Power damages if the project comes on-line after December 31, 2007. The delay damages will accrue for a period of up to 90 days. Staff supported this contract provision as it believes it is reasonable for Idaho Power to begin inserting damage provisions into PURPA contracts to provide a mechanism for the Company to be made whole if it incurs higher costs to acquire replacement power.

2. Shortfall Energy Payments

Staff also noted that the Agreement contains the methodology for computing shortfall energy payments that the Commission approved in the Firm Energy Sales Agreement between Idaho Power and U.S. Geothermal. Case No. IPC-E-04-8, Order No. 29632. Idaho Winds has voluntarily selected the U.S. Geothermal method. Use of the U.S. Geothermal methodology is a negotiated term of the Agreement and is mutually acceptable to the parties. Staff believes that

both the Fossil Gulch method and the U.S. Geothermal method are acceptable alternatives for computing shortfall energy payments and has no objection to developers choosing their preferred method.

3. Separate Interconnection Agreement

Lastly, Staff noted that the Agreement reflects the changes to Idaho Power's Schedule 72 approved in Order No. 30179 issued on November 17, 2006 in Case No. IPC-E-06-18. One of the significant changes in Schedule 72 was the creation of a standard interconnection agreement (Uniform Interconnection Agreement) that is separate from the power sales agreement.

Idaho Winds has not yet signed an interconnection agreement. In response to production requests, Idaho Power states that it has no reason to believe that a Uniform Interconnection Agreement will not be signed for this project, and further, that if there are no cluster or queue issues that arise requiring additional studies, it is anticipated that the Uniform Interconnection Agreement could be signed by year-end 2007.

The first phase of the transmission analysis, the Feasibility Study, was completed on February 5, 2007. The Feasibility Study indicates that upgrades to both the local distribution system and the nearby transmission system are necessary. A second phase study, the Transmission System Impact Study, has been started. Staff noted that the study will further identify transmission upgrades and associated costs necessary in order for Idaho Power to provide firm transmission service. The costs associated with the Network Transmission portion of this project could be reduced if other projects in the vicinity that will use some of the same transmission facilities proceed with construction, however, cost sharing arrangements have yet to be worked out.

Ideally, Staff would prefer that transmission and interconnection issues be resolved, and that a signed interconnection agreement be submitted at the same time the power sales agreement is submitted for Commission approval. Staff recognized, however, that the QF may have good reason to pursue each agreement separately, even consecutively. The power sales agreement and the interconnection agreement for this project are on separate tracks and their timing does not coincide. Staff believes that the risk to this approach, however, must remain with the project developer. In instances like this one in which firm transmission may not be available to accommodate the project without additional investment by the Company or

consideration of non-firm transmission as an alternative, prices in the related power sales agreement may be affected.

The published avoided cost rates contained in the Agreement, Staff believes, are based on an assumption that firm transmission would be available to deliver a project's output without additional Company investment. Consequently, Staff believes that firm transmission capacity is a prerequisite in order for the project's output to be deliverable on a firm basis. As long as Idaho Winds requests firm transmission and agrees to appropriate terms subsequently established for making the required transmission upgrades, the Firm Energy Sales Agreement can stand unaffected. However, if Idaho Winds requests non-firm transmission, Staff submits that the power product that it delivers must also be considered non-firm. Staff does not support payment of the full published avoided cost rates contained in the Agreement unless Idaho Winds acquires firm transmission. Conversely, Staff suggested that some downward adjustment to the contract rates could be warranted if non-firm transmission service is requested by Idaho Winds. Staff believes that the product delivered by this project and the price ultimately paid for that product is necessarily determined by both the terms in the power purchase agreement and the interconnection agreement.

This project and the recent Bennett Creek and Hot Springs projects are the first for Idaho Power in which separate agreements will exist for power sales and for interconnection. Staff's concerns with regard to the avoided cost rates being paid to the QF and whether the project acquires firm or non-firm transmission, however, also extend to wind projects with previously signed contracts that are located in areas with transmission constraints.

Staff recommended that the Commission approve all of the Agreement's terms and conditions and declare that all payments Idaho Power makes to Idaho Winds for purchases of firm energy from the Facility will be allowed as prudently incurred expenses for ratemaking purposes. However, Staff further recommended that Commission approval of the Firm Energy Sales Agreement be contingent upon Idaho Winds requesting firm transmission service for the Facility and agreeing to participate in funding any necessary transmission upgrades. Should Idaho Winds request non-firm transmission service and decline to participate in funding any transmission upgrades, Staff recommended that the Commission reserve the ability to adjust the rates contained in the Agreement to fairly account for the reduced firmness of the energy delivered or any additional transmission cost incurred by Idaho Power.

Idaho Winds Reply Comments

Idaho Winds noted that it is aware that most of the PURPA wind projects with approved PPAs are currently negotiating their interconnection arrangements. This has been complicated by a lack of existing policies related to the cost responsibilities associated with system upgrades. The various parties face many complex issues, such as:

- The lack of explicit system upgrade costs in the current avoided cost calculation.
- The Federal Energy Regulatory Commission (“FERC”) requirement for reimbursement of system upgrade costs that produce network benefits.
- The quantification of network benefits.
- The reasonableness of the load and resource scenario used in the N-1 study.
- The reasonableness of the system upgrade plan.
- The appropriateness of various full or partial funding and reimbursement mechanisms.

It further recognized that these issues are presently being addressed through discussions and negotiations between the various parties. It noted that while Idaho Winds’ project is not in the transmission-constrained area near Twin Falls, some of the issues faced by the other projects will, however, impact Idaho Winds’ transmission negotiations. It asserted that there has been no information placed in the record of this proceeding that would allow for an informed Commission decision on any of these matters.

Idaho Winds believes that conditioning the approval of the Agreement on transmission matters in this proceeding would require the Commission to prejudge the outcome of the ongoing negotiations and make at least a partial policy decision. It asserted that such decisions should wait until a comprehensive proposal is submitted and a fully developed record is available.

Idaho Winds further stated that regardless of the manner in which the issues noted above are resolved with regard to the project, they will almost certainly be brought to the Commission for approval. It emphasized its belief that that will be the appropriate time to make decisions related to transmission services and to establish the Commission’s policies on these matters.

Idaho Winds noted that this project has requested firm transmission service and the completed transmission Generator Interconnection Feasibility Study has preliminarily identified the costs associated with such service. It asserted that there is no reason, in the context of this

case, to assume the project and Idaho Power will fail to achieve an appropriate agreement regarding transmission cost responsibility.

It agreed with Staff's comment that this project and the recent Bennett Creek and Hot Springs projects are the first to separate transmission services and power purchasing obligations, in compliance with the Commission's Order No. 30179. Idaho Winds averred, though, that those changes were essentially ministerial and did not address any of the issues related to firm transmission services and cost responsibility. Idaho Winds does not believe that those changes provide the basis for restricting the Facility's transmission options before the establishment of the Commission's ultimate transmission policies.

FINDINGS

The Commission has reviewed and considered the filings of the parties in this matter. We find that the Idaho Winds project satisfies the grandfathering eligibility criteria established in Order Nos. 29839 and 29872 in Case No. IPC-E-05-22.

The Agreement is for an 18 MW wind project located in Elmore County. As represented and pursuant to contract, under normal and/or average conditions the generation from Idaho Winds will not exceed 10 aMW on a monthly basis. We thus, find the project is qualified to receive the published avoided cost rates approved by the Commission. The Commission finds the Agreement submitted in this case contains acceptable contract terms and includes the non-levelized published rates approved by the Commission in Order No. 29646. We further find it reasonable to allow payments made under the Agreement as prudently incurred expenses for ratemaking purposes.

With regard to the power purchase agreement and transmission of the generated energy, the issues presented here are similar to those that arose in Case Nos. IPC-E-06-34 and IPC-E-06-35. We agree with Idaho Winds that this is not the time to make a ruling as to the transmission service. That issue will be addressed when the parties present an interconnection agreement to the Commission.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over Idaho Power, an electric utility, and the issues raised in this matter pursuant to the authority and power granted it under Title 61 of the Idaho Code and the Public Utility Regulatory Policies Act of 1978 (PURPA).

The Commission has authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed term obligations for the purchase of energy from qualified facilities (QFs) and to implement FERC rules.

ORDER

IT IS HEREBY ORDERED and the Commission does hereby approve the December 12, 2006 Firm Energy Sales Agreement between Idaho Power Company and Idaho Winds LLC, Case No. IPC-E-06-36.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 26th day of February 2007.



PAUL KJELLANDER, PRESIDENT

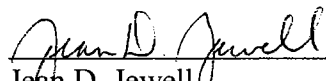


MARSHA H. SMITH, COMMISSIONER

Commissioner Hansen Voted with the Majority
Before leaving Office

DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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