

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE APPLICATION )**  
**OF IDAHO POWER COMPANY FOR )** **CASE NO. IPC-E-05-8**  
**APPROVAL OF A FIRM ENERGY SALES )**  
**AGREEMENT FOR THE SALE AND )**  
**PURCHASE OF ELECTRIC ENERGY )** **ORDER NO. 29772**  
**BETWEEN IDAHO POWER COMPANY )**  
**AND OREGON TRAIL WIND PARK, LLC. )**  
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On February 24, 2005, Idaho Power Company (Idaho Power; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting approval of a Firm Energy Sales Agreement (Agreement) between Idaho Power and Oregon Trail Wind Park, LLC (Oregon Trail) dated February 18, 2005. Under the Agreement, Oregon Trail will sell and Idaho Power will purchase electric energy generated by the Oregon Trail Project located near Hagerman, Idaho in an area more particularly described as Sections 1, 6, 7, and 12, Township 7 South, Range 12 East, Boise Meridian, Twin Falls County, Idaho. The Project consists of seven (7) 1.5 MW GE wind turbines. The nameplate rating of the project is 10.5 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 10.5 MW maximum capacity amount but will not purchase or pay for it. Agreement ¶ 7.3.2.

The Oregon Trail 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 with Oregon Trail 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 contract is for a 20-year term and contains the published non-levelized avoided cost rates set forth in Order No. 29646. Oregon Trail has selected December 31, 2005 as the scheduled operation date and January 15, 2006 as the first energy date. The proposed effective date of the Agreement is February 18, 2005.

On March 15, 2005, the Commission issued Notices of Application and Modified Procedure in Case No. IPC-E-05-8. The deadline for filing written comments was Tuesday, April

5, 2005. Comments were filed by Commission Staff and a number of interested parties and project area residents.

In its comments, Commission Staff notes that Oregon Trail is one of four wind projects proposed in the Bell Rapids area west of the City of Hagerman. Reference Thousand Springs (Case No. IPC-E-05-6), Pilgrim Stage (Case No. IPC-E-05-7) and Tuana Gulch (Case No. IPC-E-05-9). In addition to these four projects, Staff notes that the Fossil Gulch project previously approved by the Commission is also located in the same vicinity. Construction of the Fossil Gulch project is nearly complete. These four projects, in addition to the Fossil Gulch project, bring the total installed capacity in the vicinity to 50 MW. Staff recommends approval of the Agreement with the Company recommended effective date of February 18, 2005.

The comments filed by interested parties and area residents generally support renewable energy and wind power. Concern was expressed regarding the siting of the towers, however. Many commenters had not expected to see the seven Fossil Gulch wind towers on the rim, and believe that the placement of additional towers on or close to the rim will ruin the scenic beauty in the valley and is unconscionable. It is recommended that the towers be sited west of the rim, out of sight. The flashing aircraft warning lights on the existing Fossil Gulch windmills were cited as an extremely annoying feature for the residents of the Hagerman Valley. Considering that the valley floor is nearly 1,000 vertical feet below the tops of these towers, commenters suggest that the lights need to be shielded so that the lights are only visible 200 feet above the ground level at the towers. Lights should be shielded, they contend, to avoid light pollution on the ground. One commenter suggests that it is important that the siting decisions be done in conformance with environmental studies that minimize the impacts upon night-flying birds, bats, and raptor flyways. It is also important, the commenter states, that habitat for prairie grouse (sage grouse, sharp-tailed grouse, and lesser and greater prairie-chicken) be kept intact and not fragmented by wind turbine development. Leks and traditional mating grounds, the commenter cautions, should be avoided. The commenter assumes that environmental studies have been completed by competent scientists and that the Applicants have configured their development proposals to conform with them.

One commenter notes that in the case of the proposed windmills, Exergy, the project developer, is changing the viewshed along the Thousand Springs Scenic Byway. This, the commenter states, is a negative impact, but Exergy has an opportunity to offset that impact and turn their presence into a plus for the local area. Instead of operating merely for their own profit

and to supply electricity to other regions, as a good neighbor, the commenter suggests that Exergy could assist in local efforts to promote the Thousand Springs Scenic Byway, assist in the cost of interpreting the wise uses of natural resources, aid in developing recreation attractions and tourism businesses and support green energy education and resource protection in the Hagerman area.

### **Commission Findings**

The Commission has reviewed the filings of record in Case No. IPC-E-05-8, including the underlying Agreement and filed comments. Idaho Power has presented a Firm Energy Sales Agreement with Oregon Trail for Commission consideration and approval. The Agreement is for a 10.5 MW wind project located in the Hagerman area. 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 costs rates approved by the Commission.

We find that all commenting parties support the development of wind energy. Interested parties and local residents, however, have expressed concerns regarding the siting of the turbines, environmental impact and light pollution. These issues, we note, are matters that fall outside this Commission's statutory jurisdiction. We are informed by Commission Staff that James Carkulis of Exergy, the developer of the project, has stated that these concerns are matters that are the subject of ongoing discussions and matters that can be raised in other forums and addressed during local conditional use permit hearings. We encourage the commenters to participate in those discussions and proceedings.

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

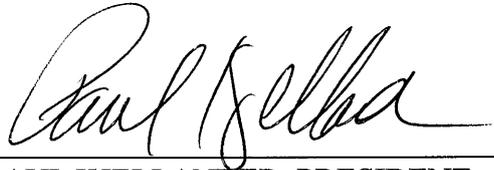
enter into fixed term obligations for the purchase of energy from qualified facilities and to implement FERC rules.

**ORDER**

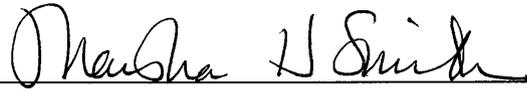
In consideration of the foregoing, IT IS HEREBY ORDERED and the Commission does hereby approve the February 18, 2005 Firm Energy Sales Agreement between Idaho Power Company and Oregon Trail Wind Park, LLC.

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 25<sup>th</sup> day of April 2005.



PAUL KJELLANDER, PRESIDENT

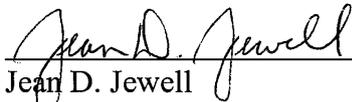


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell  
Commission Secretary

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