

144 FERC ¶ 61,005
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Rainbow Ranch Wind, LLC and
Rainbow West Wind, LLC

Docket Nos. EL12-41-001
QF11-44-002
QF11-45-002

NOTICE OF INTENT TO ACT

(July 2, 2013)

1. On April 20, 2012, the Commission issued a notice in this proceeding¹ that the Commission had declined to initiate an enforcement action pursuant to section 210(h) of the Public Utility Regulatory Policies Act of 1978 (PURPA).² The Commission also concluded that the Idaho Public Utilities Commission's (Idaho Commission) June 8, 2011 order³ rejecting Petitioners'⁴ two Firm Energy Sales Agreements (Agreements)⁵ is inconsistent with the requirements of PURPA and the Commission's regulations implementing PURPA.⁶

2. Since issuance of that notice, the Commission has twice more found that actions of the Idaho Commission rejecting firm energy sales agreements were inconsistent with PURPA, and in those cases, cases very similar to the instant case, initiated enforcement

¹ *Rainbow Ranch Wind, LLC*, 139 FERC ¶ 61,077 (2012).

² 16 U.S.C. § 824a-3(h) (2006).

³ *In the Matter of the Application of Idaho Power Company for a Determination Regarding a Firm Energy Sales Agreement Between Idaho Power and Rainbow Ranch Wind, LLC*, Order No. 32256, Case No. IPC-E-10-59; *In the Matter of the Application of Idaho Power Company for a Determination Regarding a Firm Energy Sales Agreement Between Idaho Power and Rainbow West Wind, LLC*, Order No. 32256, Case No. IPC-E-10-60, (Idaho Commission June 8, 2011) (Idaho June 8 Order).

⁴ In this order, we refer to Rainbow Ranch Wind, LLC and Rainbow West Wind, LLC as the Petitioners.

⁵ Agreements, as used here, refer to a Firm Energy Sales Agreement between Idaho Power Company (Idaho Power) and Rainbow Ranch Wind, LLC, and a Firm Energy Sales Agreement between Idaho Power and Rainbow West Wind, LLC.

⁶ 18 C.F.R. Part 292 (2012).

proceedings.⁷ Consistent with our initiation of enforcement proceedings in *Murphy Flat* and *Grouse Creek*⁸ we believe it appropriate to also initiate an enforcement action pursuant to section 210(h)(2)(A) of PURPA, with respect to Rainbow Ranch.

The Commission orders:

Notice is hereby given that the Commission will initiate an enforcement action under section 210(h)(2)(A) of PURPA.

By direction of the Commission. Chairman Wellinghoff is not participating.
Commissioner Clark is dissenting.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁷ *Murphy Flat Power, LLC*, 141 FERC ¶ 61,145 (2012) (*Murphy Flat*); *Grouse Creek Wind Park, LLC*, 142 FERC ¶ 61,187 (2013) (*Grouse Creek*).

⁸ *Id.*