BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF UTAH

IN THE MATTER OF THE APPLICATION OF PACIFICORP FOR AN ORDER APPROVING AVOIDED COST RATES	)))))	DOCKET NO. 03-035-14

REBUTTAL TESTIMONY OF JEFF BURKS ON BEHALF OF THE UTAH ENERGY OFFICE UTAH DEPARTMENT OF NATURAL RESOURCES

Q: Please state your name and address.

A. My name is Jeff Burks, and my business address is 1594 West North Temple, Suite 3610, PO Box 146480, Salt Lake City, Utah 84114-6480.

Q: Who is your employer and in what capacity are you employed?

A: I am employed by the Utah Department of Natural Resources where I currently serve as Energy Policy Coordinator for the Utah Energy Office (UEO).

Q: Have you previously testified before the Utah Public Service Commission on the issues related to regulation of electricity services in Utah?

A: Yes. I have filed testimony in PacifiCorp Dockets 97-035-01, 98-2035-004, 99-035-10, 01-035-01, 01-35-037and was a signatory party to the *Stipulation of Settlement of Issues Related to the Public Purposes Programs* in the Scottish Power/PacifiCorp merger proceedings. I have served as co-chair of the Public Service Commission's (Commission) Energy Efficiency and Renewable Energy Task Force, Energy Efficiency Advisory Group, and Natural Gas Demand Side Management Work Group

Q: What is the purpose of your rebuttal testimony in this docket?

A: The purpose of my rebuttal testimony is to respond to issues addressed in the pre-filed testimony of other witnesses. I will comment on testimony filed by the Committee of Consumer Services ("Committee") witness Kelly Francone and the

Pacificorp's ("the Company") witness Mark Tallman on the issue of Green Tags ownership and Qualifying Facilities, (QFs), and value of Green Tags. I will provide testimony to the Commission that the use of Green Tags or renewable energy certificates is an emerging issue to be considered in other utility matters than just this proceeding. Finally, this docket presents the Commission with its first opportunity consider the issue of green tags within the context of the development of the Western Renewable Energy Generation Information System (WREGIS.

Q : What issues would you like to comment on regarding Witnesses Francone's and Tallman's testimony on "Green Tags"?

A: I would like to expand upon witnesses Mark Tallman and Kelly Francone's comments on "Green Tags" and provide the Commission with additional information regarding RECs, markets for RECs, ownership of RECs and the necessity of the Company participating in an independent accounting system to allow regulators to track and account for ownership and transfer of RECs.

Q: What is a REC?

A: Electricity generated from renewable energy creates two distinct tradable commodities – the underlying electricity and the associated "environmental" attributes. RECs represent a contractual right to the environmental attributes associated with a specific amount of renewable energy generation. RECs have value to consumers and can, and are being sold separately from the electricity. One REC represents 1 MWh of renewable energy generation.

Q: Please explain the difference between Green Tags and RECs?

A: RECs and Green Tags are different names for the same commodity, i.e. the environmental attributes of renewable energy generation. They are also referred to as tradable renewable certificates (TRC), green tickets, renewable certificates, renewable energy credits, and renewable resource credits.

Q: To what extent are RECs currently being sold and traded in U.S. power markets?

A: Wholesale and retail markets for RECs are expanding rapidly in the U.S. and the West for both regulatory compliance and commercial purposes. As Committee witness Kelly Francone has stated, RECs are being used to verify compliance

with Renewable Energy Portfolio Standards (RPS) and other renewable energy mandates established by state legislatures or utility regulators.[1] Commercially, RECs are a universally accepted part of wholesale transactions for sales of electricity from wind projects. A recent memorandum prepared by KEMA, Inc. for the California Energy Commission estimates that at least 4.5 million MWh of wholesale transactions involving RECs were contracted for in 2003. At the retail level, six of the ten largest green pricing programs in the U.S. are using RECs purchases to support their programs, including PacifiCorp's Blue Sky program.

Q: Why are RECs important to Utah regulators, and consumers?

A: As established by direct testimony of the Company's Witness, Mark Tallman, RECs (or "green tags") are closely associated with wholesale sales of electricity from QF renewable energy facilities and therefore intersect with utility regulation. Additionally, there are a number of circumstances were RECs and establishing RECs ownership will be important to this Commission, the Company and rate payers.

Because RECs have economic value, establishing ownership of RECs is important to the Commission in setting of rates, establishing tariffs and protecting interest of consumers participating in voluntary green pricing programs. The Company's 2003 IRP and recent RFP for renewable resources suggest purchases of electricity from renewable energy sources will become an increasing part of the Company's resource portfolio in the near future. In the case where the Company owns renewable energy generation that has been paid for with ratepayer funds, the revenues from the sale of RECs to other utilities or wholesale marketers should be credited against the Company's cost of service in establishing revenue requirements in setting rates. RECs can also be used by the Commission to monitor and compare the Company's purchase and sales of renewable energy against their IRP commitments.

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1 Most states with a RPS have allowed RECs to be used to demonstrate compliance including, Arizona, Connecticut, Maine, Massachusetts, Nevada, New Jersey, New Mexico, Texas and Wisconsin. RECs are

In the matter raised in this docket by Company's witness Bruce Griswold, the avoided cost price for electricity generated from a wind QF should be adjusted to reflect whether or not the ownership of RECs belong to ratepayers or the QF. Finally, ownership of RECs is important in protecting the interest of consumers who have contributed to the Company's investments in renewable energy through the Blue Sky program. Participants in this program need the assurance that the RECs and the associated environmental benefits the Company purchases on their behalf are owned by the participants and have not previously been sold by the renewable energy generator or used by the utility to meet some other regulatory compliance purpose.

Q: How can ownership of RECs be tracked?

A: There are two principle methods to verify RECs ownership; contract audits and certificates based tracking systems. The first method, contract audit, is to conduct an independent audit of the chain of custody for RECs using contracts from the generator through to the final owner. The audit is performed using either power sales contracts if the RECs have been sold bundled with electricity or RECs contracts if they are sold unbundled.[2] If the RECs are sold bundled with the electricity this method of tracking can involve the audit of settlements data from a control area operator or the review of numerous contracts making it cumbersome and expensive. This method of tracking is labor-intensive, expensive and not a very practical given the volumes and the dollar amounts involved. Another disadvantage to the contract-path audit is that it is unable to check for double counting (selling) system-wide because in each audit the auditor is only looking at the transaction between the generator and the utility. As a result it is very difficult for a regulator to establish whether double counting or selling of RECs is occurring.

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also emerging as a product that is being designed into utility green pricing programs.

2 *Draft* Design Guide for Renewable Energy Certiricate Tracking Systems, National Wind Coordinating

The second method for tracking ownership of RECs is through an electronic certificates-based tracking system. Certificate tracking systems allocate one REC for each MWh of electricity produced, and each REC has a unique serial number. The possession of the REC is proof of ownership and eliminates the need to track ownership through a chain of generators and intermediaries. Audits to verify ownership of RECS are almost entirely automated and made simpler with a certificates-based accounting system.

Q: Are there any regions in the U.S. were tracking systems are operating or in development?

A: Yes. At present, two parts of the country have operating generation information and certificate tracking systems. The first system was brought on-line in Texas in 2001 and a second system was implemented in the New England Power Pool (Nepool) in 2002. The Texas system is operated by ERCOT and only tracks the generation of renewable energy and ownership of RECs. The Nepool system tracks all generation sources, including renewables. There are also two other certificates-based generation information system under development in the PJM and Western interconnections.

Q: Who is sponsoring development of the generation information system in the Western Interconnection?

A: The Western Governors Association (WGA), the Western Regional Air Partnership (WRAP), and the California Energy Commission (Energy Commission) are funding development of the Western Renewable Energy Generation Information System (WREGIS).

Q: Please explain the functions of WREGIS and how it will track ownership of RECs?

A: WREGIS will be an independent accounting system that tracks renewable energy generation, creates RECs and accounts for transactions and ownership of RECs in the geographic region covered by the Western Electric Coordinating Council. WREGIS will operate like a banking system for RECs. When a generator registers with WREGIS an account will be established. Each MWh of renewable energy generation from the generators facility will be issued a unique

serial number and the newly created RECs will be deposited into the generators account. When the generator sells RECs, it transfers those RECs into account the buyer who must also establish and account with WREGIS. In this way ownership, trading and retirement will be tracked. WREGIS will also create independent reports on REC transactions for utility regulators and market participants.

Q: When is WREGIS scheduled to be operational?

A: WREGIS is scheduled to be on line in 2005. When operational it will provide state utility regulators with the precision and transparency they need to 1) verify utility compliance with state renewable energy policies and Commission approved programs, 2) establish ownership and revenues associated with RECs for purposes of setting rates and tariffs, and 3) protect consumers and utilities purchasing green power from "double sales" and false product claims.

Q: What is the Utah Energy Office's position on the ownership of RECs associated with power purchased from a renewable energy QF?

A: Implicit in the Commission's approval of the Blue Sky tariff is the acknowledgement of RECs as an acceptable instrument for the Company to use in transacting purchases of electricity from renewable energy facilities. Recognition of RECs should also extend to power purchases associated with new renewable energy QF contracts.

With respect to the ownership of RECs under existing QF contracts, the UEO believes the matter is beyond the scope of this docket and should be established by the Commission in a separate proceeding. The question before the Commission in this docket is whether or not RECs associated with the purchase of new QF renewable power at wholesale under this avoided cost filing automatically transfers ownership of the RECs to the ratepayer? It is the Energy Office's position that ownership should not be automatically transferred and that this is a matter to be negotiated between the Company and the QF owner.

One of the desirable features of RECs is the ability to trade them separately from

the underlying electricity commodity. In combination with other policies and programs sponsored by states and utilities, RECs can improve the economics of renewable energy resources and increase the development of the most cost effective resources in Utah and the West. The option of the utility and QF owner to negotiate whether or not to include RECs in the wholesale power agreement enables the parties to make decisions that maximize the value of the commodity or offers the greatest benefits to the owner of the REC whether that is the Company's customers or the QF owner. For example, on page 3 of testimony filed by the Committee's witness, Kelly Francone, the Committee finds that there is a wide divergence in the price paid for RECs in the wholesale market. The Committee's conclusion is consistent with the observations the UEO has made tracking RECs prices in different markets for 2003. It is difficult to see how the Commission could automatically confer ownership of the RECs to ratepayers without first establishing a value or a methodology for assigning a value to the REC.

It is also the UEO's position that not all RECs are equal or desirable. For example, a REC from a land-fill gas project has associated with it fugitive methane that can be a significant future liability as a greenhouse gas. In the case of the land-fill gas QF, it is conceivable that the availability of electricity and the cost power from the project would be in the best interest of the utility and ratepayers, however automatic ownership of the RECs might not be considered by ratepayers to be particularly beneficial. In this example the Company should not be required to purchase, nor customers pay for, the REC associated with this renewable energy QF.

What is more critical in this proceeding is that the Commission consider how to establish a consistent method for verifying ownership and a value of RECs purchased from a renewable energy QF. If the Company purchases the REC as part of the QF wholesale power contract the Commission and utility should be able to verify that the Company has sole custody of the RECs purchased and

that the benefit of the renewable attributes be conveyed to ratepayers that paid for the RECs. This will ensure that they have not been double sold by the QF owner and that the customer will receive the benefits inherent in purchasing both the electricity and the RECs. .

Q: What is the UEO's poisition on the value that should be ascribed to RECs?

A: The UEO agrees with the Committee's witness that there is a great deal of variability between the value of RECs depending on the type of market they are bought and sold in, technology and location. For example, discussions the UEO has had with RECs brokers indicates pricing in compliance markets can vary by a factor of 10 depending on the region of the country. In voluntary markets, where buyers are responding to individual preferences, prices can vary by two orders of magnitude.

In the absence of a firm market price for RECs or a Commission proceeding where a value for RECs is established by expert testimony, it would not be prudent at this time for the Commission to establish a value or term at which the Company is required to purchase the RECs associated with a renewable QF power purchase contract.

Q: What are the UEO's recommendations regarding the issues of "green tags" or RECs as raised by other witnesses in this docket?

A: First, the Commission should acknowledge that RECs as an acceptable instrument for the Company to use in transacting sales and purchases of electricity from renewable energy facilities, including QFs.

Second, the Commission should not require the Company to automatically purchase RECs associated with the purchase of new QF renewable power at wholesale under this avoided cost filing. Whether or not RECs are purchased with the electricity commodity should be determined during the negotiation of the QF power purchase contract. The Commission' s decision whether or not to approve the RECs purchase agreement should then be informed by the positions of other interested parties.

Third, given the growing role of RECs in renewables energy markets and state and utilty supported renewable energy programs, the Commission should establish an informational proceeding involving subject experts and other interested parties to investigate utility-related issues on the value and ownership of RECs .

Finally, in order to firmly establish and track ownership of RECs that are purchased and sold by the Company, the Commission should require the Company to establish an account with WREGIS when it becomes operational in 2005 and transact all renewable sales and purchases through that account.

Q: Does this conclude your testimony?

A: Yes it does.