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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of) PACIFICORP’S REPLY IN OPPOSITION
PACIFICORP for Approval and IRP Based) TO PETITION FOR EXTENSION FOR
Avoided Cost Methodology for QF Projects) FILING SURREBUTTAL TESTIMONY
Larger than 3 Megawatts) OF WASATCH WIND
)
) DOCKET NO. 03-035-14
)

PacifiCorp (or the “Company”) hereby submits this reply in opposition to the Petition for Extension for Filing Surrebuttal Testimony for Wasatch Wind (“Petition”) filed on September 6, 2005. Wasatch Wind has failed to offer any reasons that would support a Utah Public Service Commission (“Commission”) finding of good cause in granting the requested extension. Instead, Wasatch Wind is requesting that PacifiCorp and other parties continue to be prejudiced in their time for responding to Wasatch Wind because of Wasatch Wind’s own failure to comply with a Commission order. Therefore, the Petition should be denied. In support thereof, PacifiCorp states as follows:

Discussion

Per the Commission’s Amended Scheduling Order in this proceeding, issued on July 1, 2005, the direct testimony of intervenors was due to be filed by electronic mail (or if not available by facsimile or hand-delivery) by July 29, 2005. Wasatch Wind did not file the

testimony of its two witnesses until Sunday, July 31, 2005 and the afternoon of August 1, 2005. PacifiCorp moved to strike the late-filed testimony, or in the alternative, extend the time for responding to the late-filed testimony. Wasatch Wind did not file any reply or response to PacifiCorp's motion explaining the reason for the delay or explaining why the remedy PacifiCorp sought was inappropriate.

In its Order Extending Rebuttal Testimony To Late Filed Direct Testimony Of Wasatch Wind issued on August 10, 2005 ("August 10 Order"), as amended by the August 11, 2005 Erratum Order, the Commission granted PacifiCorp's motion and provided the parties additional time until September 12, 2005 to prepare and file their rebuttal testimony to the late-filed direct of Wasatch Wind.

Based on the Commission's August 10 Order, PacifiCorp proceeded to prepare its rebuttal testimony working under the premise that it and other parties had until September 12, 2005 to reply to the late-filed Wasatch Wind testimony. Just before the majority of the rebuttal testimony was due in this proceeding, Wasatch Wind filed its Petition. Wasatch Wind argues that the filing of rebuttal testimony on September 12, 2005 "creates a problem for Wasatch Wind" because they will have only three days to prepare their surrebuttal response to that testimony. As a remedy, Wasatch wind requests that it be granted a "slight delay" of two business days to file its surrebuttal testimony, to September 19, 2005.

1. Wasatch Wind Should Not Be Entitled To Prejudice the Rights of Other Parties As a Response to the Commission's Remedy for Wasatch Wind's Failure to Comply with the Commission's Scheduling Order.

The Commission extended the time for parties to file surrebuttal in response to Wasatch Wind's direct testimony because it was late-filed. This extension was a remedy for Wasatch Wind's failure to comply with a Commission-ordered scheduling deadline. While it is true that that remedy cuts into the time available for Wasatch Wind to file is surrebuttal, it does so

because otherwise Wasatch Wind's late-filed testimony would have cut into the time for all other parties to respond in rebuttal. While the Commission's August 10 Order protects parties against that prejudice, the new relief Wasatch Wind seeks creates a new prejudice to parties. If Wasatch Wind's Petition is granted, all other parties will have less time to prepare for the hearing on the Wasatch Wind issues.

While Wasatch Wind claims they are seeking only a "slight delay" of two business days, the actual effect of the remedy they are seeking is to provide their surrebuttal testimony just two full days before the hearing in this proceeding begins. In other words, instead of parties having a week to review the Wasatch Wind surrebuttal testimony and prepare for hearing, as they will be able to do with all other filed surrebuttal which is due on September 15, 2005, Wasatch Wind seeks a remedy which would allow it to file its testimony late and then require all other parties to lose time in which to review it and prepare for the hearing with respect to that testimony. In other words, Wasatch Wind will be advantaged by the fact that all other parties have less time to prepare for hearing on their testimony. Wasatch Wind should not be permitted to benefit from a Commission-ordered remedy to their own late-filed testimony.

2. The Remedy Wasatch Wind Seeks is Not Necessary.

In any event, Wasatch Wind does not need the benefit of the remedy it seeks. It appears that not all parties used the extension of time to file rebuttal testimony to the Wasatch Wind late-filed direct testimony. *See, e.g.*, DPU Exhibit 2.0R, Rebuttal Testimony of Andrea Coon; Witness CCS-1, Rebuttal Testimony of Philip Hayet at page 3, lines 15-16. While PacifiCorp will be filing its rebuttal testimony to Wasatch Wind today, it will be limited. Accordingly, Wasatch Wind does not need the additional time to respond because with respect to most

testimony it will file surrebuttal to, it will have had the same time to prepare surrebuttal as all other parties.

In addition, because most parties have already filed rebuttal testimony to Wasatch Wind, if Wasatch Wind's motion is granted, Wasatch Wind will in fact get more time than other parties to respond in surrebuttal. While PacifiCorp will need to file surrebuttal on the one-week turnaround provided for in the procedural schedule, Wasatch Wind will be given additional time to do so only because of the fact that they initially filed their direct testimony late.

Conclusion

WHEREFORE, PacifiCorp respectfully requests that the Commission deny Wasatch Wind's petition for extension of time to file surrebuttal testimony. Wasatch Wind should not benefit from a situation of their own making to the detriment of other parties.

Respectfully submitted this ____ day of September 2005.

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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of September 2005, I caused to be served by electronic service, a true and correct copy of the foregoing Reply In Opposition To Petition For Extension For Filing Surrebuttal Testimony Of Wasatch Wind to the following:

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