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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of)	
PACIFICORP for a Certificate of)	PACIFICORP'S OPPOSITION TO
Convenience and Necessity Authorizing)	CALPINE'S PETITION TO INTERVENE
Construction of the Currant Creek)	
Power Project)	DOCKET NO. 03-035-29

PacifiCorp hereby responds to Calpine Corporation's Petition to Intervene ("Petition") filed in this matter. PacifiCorp opposes Calpine Corporation's intervention in this proceeding for the following reasons.

1. Utah law provides that a petition for intervention shall be granted if it is determined that: (a) the petitioner's legal interests may be substantially affected by the proceeding; and (b) the interests of justice and the orderly and prompt conduct of the adjudicative proceedings will not be materially impaired by allowing the intervention. Utah Code Ann. § 63-46b-9(2). To fulfill the requirements of subsection (a) above, a petition to intervene must include "a statement of facts demonstrating that the petitioner's legal rights or interests are substantially affected by the formal adjudicative proceeding, or that the petitioner qualifies as an intervenor under any provision of law" and "a statement of the relief the petitioner seeks." Utah Code Ann. §63-46b-9(1)(c) & (d). Calpine's Petition does not include these required statements. Furthermore, Calpine has not demonstrated and cannot demonstrate that its

legal rights or interests will be affected by this proceeding or that the orderly and prompt conduct of this proceeding will not be impaired by its intervention.

2. Calpine's claim of substantial interest is based solely on its contention that it "proposes to construct new generation facilities within the State of Utah" and "submitted bids in response to RFP-2003A." Calpine's vague contentions that it proposes to construct generation facilities in the state and that it submitted bids in response to PacifiCorp's RFP-2003A do not constitute a statement of facts demonstrating that its legal rights or interests are substantially affected by this proceeding. In fact, Calpine did not submit a bid in the 2005 "peaker" category, which is the bid category for which the Currant Creek Project was selected, and is the only bid category relevant to this case.¹ Absent a statement of facts demonstrating that its legal rights may be substantially affected by this proceeding, Calpine has not satisfied its burden under the statute.

3. Since Calpine failed to provide a statement of the relief it seeks in this proceeding, PacifiCorp does not know the result Calpine will seek. In light of the fact that Calpine did not submit a bid in the 2005 "peaker" category, i.e., did not submit a bid for comparison to the Currant Creek Project, and there is no other basis on which Calpine's legal interests could be substantially affected by this case, it appears Calpine's purposes in this case could only be to broaden the scope of the proceeding or obtain confidential information that it could not otherwise obtain. Intervention for either of those purposes would certainly materially impair the interests of justice and the prompt and orderly conduct of this proceeding, and should not be allowed.

¹ The undersigned confirmed with the independent evaluator for the 2003-A RFP, Navigant Consulting, that Calpine did not submit a bid for the 2005 bid category. In contrast to Calpine's Petition, Spring Canyon Energy, in its petition to intervene, specifically referred to its participation in that category of bids that were compared to the Currant Creek Project.

WHEREFORE, PacifiCorp respectfully requests that the Commission deny Calpine's Petition.

Respectfully submitted this _____ day of November, 2003.

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CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of November, 2003, I caused to be served, via facsimile, overnight delivery or hand delivery, and United States mail a true and correct copy of the foregoing Opposition to Calpine's Petition to Intervene to the following:

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