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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE PETITION OF SPRING CANYON, LLC FOR APPROVAL OF A CONTRACT FOR THE SALE OF CAPACITY AND ENERGY FROM ITS PROPOSED QF FACILITY	DOCKET NO. 05-035- PETITION FOR EXPEDITED APPROVAL OF QF CONTRACT
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Pursuant to Utah Code Ann. § 54-12-2, and Section 210 of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), 16 U.S.C. §824a-3, Spring Canyon, LLC ("Spring Canyon") hereby petitions the Public Service Commission ("Commission") to approve on an expedited basis a contract for the sale to PacifiCorp of electric energy and capacity from Spring Canyon's proposed Qualifying Facility ("QF"). Spring Canyon submits that its proposed draft contract attached hereto as Spring Canyon Exhibit 1.1 should be approved, subject to such additions, changes or amendments as may be appropriate, lawful, required by parties' negotiations, and in the public interest.

In support of this Petition, Spring Canyon states as follows:

1. This Commission has jurisdiction over this Petition pursuant to Utah Code Ann. §54-12-1, *et seq.*, and Section 210 of the PURPA of 1978, 16 U.S.C. § 824a-3, and regulations promulgated thereunder.

2. Spring Canyon has executed a purchase and sale contract on a 40-acre site near Mona, Utah, has acquired sufficient water rights for the QF facility, has executed a Large Generator Interconnection Agreement with PacifiCorp Transmission, and has received an air permit from the Utah Division of Air Quality to operate the facility. Spring Canyon's facility will be a combined cycle combustion turbine generator and will provide thermal energy for useful purposes such that it will be a Cogeneration Facility under Utah law and a QF under PURPA.

3. Spring Canyon will file a notice of self-certification as a QF with the Federal Energy Regulatory Commission and will provide notice to PacifiCorp and the Public Service Commission of Utah.

4. Under applicable federal and state laws, PacifiCorp is required to purchase all capacity and energy offered to it by a QF at PacifiCorp's avoided costs. Spring Canyon is offering to sell capacity and energy from its QF to PacifiCorp in accordance with the avoided cost rates and terms specified in the May 20, 2004 stipulation approved by the Commission by order dated June 28, 2004 in Docket No. 03-035-14 ("Stipulation").

5. Spring Canyon is seeking to sell to PacifiCorp all remaining capacity for 20 years under the 275 MW cap established by the Commission in its order approving the Stipulation. Remaining capacity includes all megawatts not encompassed by or utilized in contracts the Commission has approved between PacifiCorp and Desert Power, Tesoro, Kennecott, and U.S. Magnesium. The remaining capacity Spring Canyon intends to offer for sale to PacifiCorp is at least 100 megawatts and possibly more based on the terms of the previous QF contracts the Commission has approved. The power Spring Canyon sells will be fully dispatchable.

6. In a letter dated July 30, 2004, Spring Canyon informed PacifiCorp of its intent to build a QF facility under the terms of the Stipulation. Spring Canyon unsuccessfully sought from PacifiCorp indicative pricing and a draft contract under PacifiCorp's Schedule 38. At the time of Spring Canyon's original July 30 2004 letter, PacifiCorp was obligated to provide an indicative pricing proposal within 30 days, but the Commission suspended that requirement by order dated September 23, 2004 in Docket No. 04-035-T10.

7. PacifiCorp responded to Spring Canyon's July 30th letter on September 17, 2004, giving its opinion that Spring Canyon could not rely on the pricing of the Stipulation. Apparently, it was PacifiCorp's view that Spring Canyon would have to await the outcome of the Large QF Task Force established in the Stipulation. PacifiCorp also asked Spring Canyon for more information under Schedule 38.

8. On September 24, 2004, Spring Canyon replied to PacifiCorp and emphasized that Spring Canyon was seeking indicative pricing for a contract to sell to PacifiCorp the remaining megawatts under the terms of the Stipulation. Spring Canyon also provided PacifiCorp with the information PacifiCorp had requested under Schedule 38.

9. By letter dated September 28, 2004, Spring Canyon petitioned the Commission to direct PacifiCorp to enter into good faith negotiations with Spring Canyon for a contract to sell to PacifiCorp the remaining capacity under the 275 MW cap as a QF. In that same letter, Spring Canyon petitioned the Commission to increase the 275 MW cap of the Stipulation, which the Commission denied without prejudice by order dated October 7, 2004 in Docket No. 03-035-14.

10. Spring Canyon reiterates its pending petition to the Commission to permit Spring Canyon to sell to PacifiCorp the remaining capacity under the 275 MW cap of the Stipulation. Under the terms of a QF contract, Spring Canyon will provide thermal energy on an efficient

basis in accordance with QF requirements. In addition to maximizing energy utilization per unit of resource input, Spring Canyon's QF project will help relieve some of the growing capacity needs projected in PacifiCorp's Integrated Resource Plan for the benefit of Utah utility ratepayers. The project will also provide economic development by creating jobs and associated economic activity in Juab County. Beyond PacifiCorp's legal obligation to purchase the power, Spring Canyon's proposal is in the public interest.

11. To meet the terms of the Stipulation, Spring Canyon must have its power on line and available to PacifiCorp by no later than June 1, 2007. In making this filing, Spring Canyon intends to obligate itself to deliver energy and capacity from its facility at rates and conditions reflecting those established in the Stipulation, and to create a legally enforceable obligation between itself and PacifiCorp. Spring Canyon's request is simple: it is seeking to sell to PacifiCorp the remaining capacity under the 275 MW cap as a QF for 20 years and intends to meet the other terms of the Stipulation. To date, Spring Canyon has not been able to obtain the information it needs under Schedule 38 to complete a contract with PacifiCorp, and PacifiCorp has not been willing to negotiate with Spring Canyon without acknowledgement from the Commission of the remaining capacity under the 275 MW cap available to Spring Canyon.

Wherefore, Spring Canyon respectfully requests that the Commission, on an expedited basis:

- a. acknowledge that the remaining capacity under the 275 MW cap available to Spring Canyon to sell to PacifiCorp is at least 100 MW and possibly more subject to the terms of the four QF contracts the Commission has already approved;
- b. find that Spring Canyon's QF proposal is in the public interest; and,

c. approve a QF contract between Spring Canyon and PacifiCorp in order for Spring Canyon to meet the June 1, 2007 deadline in the Stipulation.

DATED this 9th day of February, 2005.

Callister Nebeker & McCullough

Stephen F. Mecham
Attorneys for Spring Canyon

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petition was emailed and mailed, postage prepaid, this 9th day of February 2005, to the following

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