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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 Facilities	DOCKET NO. 05-035-08
In the Matter of the Petition of Pioneer Ridge LLC & Mountain Wind For Approval of a Contract For the Sale of Capacity and Energy from its Existing and Proposed QF Facilities	DOCKET NO. 05-035-09
	UAE POSITION REGARDING ISSUES IDENTIFIED IN SCHEDULING ORDER

UAE files this statement of its position on the issues raised in the Commission's Scheduling Order dated February 24, 2005. While UAE is not filing prefiled testimony at this time, it will briefly explain its position on the issues identified in the Scheduling Order. UAE reserves the right to file testimony on March 18 in response to testimony or information provided by PacifiCorp or other parties.

<u>PSC Issue # 1</u>: Does the Stipulation approved in Docket No.03-035-14 ("Stipulation") still reflect PacifiCorp's avoided costs such that it remains the applicable interim method for determining avoided costs?

UAE Position: The Stipulation continues to provide reasonable and appropriate avoided cost pricing, and approval of QF contracts based on the Stipulation will continue to be consistent with the public interest and the best interests of Utah ratepayers. UAE's position is supported by at least the following factors:

- The Stipulation reflects a compromise among parties with very diverse interests and positions. Several participants, including UAE, believed at the time the Stipulation was executed, and continue to believe, that the Stipulation pricing did not, and still does not, adequately reflect PacifiCorp's properly-calculated avoided costs. The Stipulation was entered into as a compromise, given the lack of agreement on the proper means of calculating avoided costs. The parties continue to disagree on the proper method of calculating avoided costs and the Stipulation continues to reflect a reasonable interim compromise.
- Utah law states that development of cogeneration projects is to be encouraged. Ignoring or suspending a Stipulation that resulted from protracted and difficult litigation and negotiations would serve only to frustrate the development of efficient cogeneration projects, contrary to sound public policy and Utah law. Additional protracted litigation will be necessary to resolve the differences in opinion. Until that process is completed, the Stipulation provides the most reasonable and defensible estimate of avoided costs.
- The Stipulation is not even a year old and contracts negotiated under the Stipulation have been approved within the past few months. There is no sound basis for suggesting that

conditions have changed so dramatically that new contracts with Stipulation-based pricing and conditions would no longer be in the public interest.

- Projections of costs, revenues, loads and resources are constantly changing. Negotiations and litigation (which is nearly always required for a QF contract in Utah) take significant time. Avoided costs cannot be subjected to continual re-evaluation throughout the contract approval process, or the process will never end and projects will never be completed.
- The avoided cost prices agreed to in the Stipulation are lower than current avoided cost projections. This can be demonstrated in numerous ways using PacifiCorp’s own data. For example:
    - o The most recent run of PacifiCorp's own IRP differential revenue requirements model (with a 500 MW block) yields higher all-in avoided costs than the avoided costs used in the Stipulation. Moreover, these avoided cost projections are overly conservative in that they do not use PacifiCorp’s updated natural gas forecast, but rather a lower and outdated gas forecast from June 2004. Notwithstanding the low gas price projections, the all-in levelized avoided cost using the differential revenue requirement model is about 49 mills/kWh for a 20-year contract, compared to about 48 mills used in the Stipulation. The summary sheet reflecting this run is attached as Exhibit A. Moreover, additional adjustments to the differential revenue requirements model are necessary to better reflect avoided line losses and capacity degradation of utility CCCTs, meaning that the avoided cost numbers should be even higher.
    - o PacifiCorp's own resource stack proxy methodology yields an avoided cost that is substantially higher than the Stipulation price – approximately 58 mills/kWh. The summary sheet reflecting this run is attached as Exhibit B. Moreover, as with the

differential revenue requirements model, additional adjustments should be made to this run to better reflect avoided line losses and capacity degradation, meaning that PacifiCorp's calculated avoided cost numbers should be higher.

- UAE's avoided cost methodology also yields an avoided cost substantially higher than the Stipulation pricing.
- Projected capacity costs for the next deferrable resource used by PacifiCorp in litigation preceding the Stipulation are lower than projected capacity costs for the next deferrable resource now projected by PacifiCorp. Capacity costs for the next deferrable resource prior to the stipulation were about $726/kW, including associated transmission costs. The projected capacity costs for the next deferrable thermal unit identified in the 2005 IRP preferred portfolio - a dry cooled Utah Brownfield CCCT - are higher, approximately $859/kW, including associated transmission cost. See 2005 IRP Appendix C, page 65, Table C-27; 2005 IRP Appendix D, page 71, Table D-1.
- Avoided capacity costs projected by PacifiCorp prior to the Stipulation are also lower than the blended capacity price of a blended proxy that reflects the mix of resources planned under the 2005 IRP. If one considers not just the next deferrable unit, but the weighted composite capacity cost of all of the resources in the preferred IRP portfolio, the composite capacity cost - including planned coal fired capacity – is much higher. See 2005 IRP Appendix C, page 65, Table C-27; 2005 IRP Appendix D, page 71, Table D-1; see also Exhibit C.
- Energy prices used in the Stipulation are very conservative compared to currently projected system avoided energy prices. Gas prices implicit in the avoided energy

prices agreed to in the stipulation are lower than the base case gas prices used in the 2005 IRP. See Stipulation, Appendix A; 2005 IRP, Appendix C, pages 31-32. Base case gas prices used in the IRP, in turn, are substantially lower than PacifiCorp's high gas price forecast, which is based upon a more recent gas forecast. See 2005 IRP, pages 31-32. Exhibit C graphically depicts the significant differences among the gas price forecasts assumed in the Stipulation, used as the base case in the 2005 IRP, and used as the high gas price case in the IRP.

- Since current avoided costs are higher than avoided prices used in the Stipulation, the Stipulation is a conservative and reasonable estimate of avoided costs and should be continued on an interim basis pending approval of a method to determine avoided costs.

PSC Issue # 2: If the answer to question (1) is yes, how many megawatts are remaining under the cap contained in Paragraph 10 of the Stipulation?

UAE Position: The Stipulation should be interpreted to provide an initial cap of no less than 275 MW of *firm* QF capacity. Moreover, UAE submits that the cap should be expanded, as necessary, to facilitate: (i) contracts currently before the Commission for approval; (ii) extensions, expansions and firming-up of existing QF contracts that may terminate before an avoided cost methodology is approved by the Commission; and (iii) other projects that may be submitted for approval before an avoided cost methodology is adopted. UAE's position is based upon at least the following factors:

- Both the language and intent of the Stipulation suggest that the initial 275 MW "cap" should apply only to firm contracts. For example:
  - The Stipulation references "power" that will be made available prior to June 1, 2007 and the initial cap is referenced only in the context of capacity (MW).

    - There is no sound reason for non-firm (energy) contracts to come under the initial MW cap specified in the Stipulation. Non-firm contracts are priced at an electric energy index and pose little risk to ratepayers.
    - The "cap" was not intended to be a "hard cap." Indeed, the Stipulation itself contemplates expansion of the cap upon request by any party.

- The amount of firm capacity applied against any cap should be adjusted based upon applicable capacity factors. Capacity pricing is adjusted under the Stipulation based on capacity factor and the capacity applied against the cap should similarly be adjusted based upon capacity factor. For example, wind resources have a capacity factor of only about 35%, so only that amount should be counted against any cap.

- Existing QF contracts that expire before the Commission enters a final order approving an avoided cost methodology should also be accommodated under the Stipulation, including conversion to firm contracts and expansion to encompass the total output of the facility. For example, Tesoro's contract expires at the end of 2005. The Stipulation should accommodate a new Tesoro agreement, including a firm arrangement, should the same be desired, at an amount up to the maximum output of the QF facility – 25 MW.

- In order to facilitate and encourage efficient cogeneration projects, if new QF contacts are proffered prior to Commission approval of a new methodology, they should also be approved at stipulation prices. As discussed above, the prices agreed to in the Stipulation are conservative, and efficient cogeneration projects that can be financed at those prices should be encouraged and facilitated.

PSC Issue # 3: If the answer to question (1) is yes, how should the order of eligibility for the remaining megawatts be determined and what is the order?

UAE Position: See UAE's position in response to PSC Issue #2.

DATED this 28th day of February, 2005.

HATCH, JAMES & DODGE

/s/________________________
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Attorneys for UAE Intervention Group

Exhibit A

[Summary Sheet from PacifiCorp's IRP Differential Revenue Requirements Model]

Exhibit B

[Summary Sheet from PacifiCorp's Resource Stack Proxy Method]

Exhibit C

[Graph Depicting Stipulation, IRP Base Gas Case and IRP High Gas Case]

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email this 28th day of February, 2005, to the following:

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