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Representing Wasatch Wind

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE PETITION OF
WASATCH WIND, LLC FOR APPROVAL
OF A CONTRACT FOR THE SALE OF
CAPACITY AND ENERGY FROM THEIR
PROPOSED QF FACILITIES

IN THE MATTER OF THE APPLICATION
OF PACIFICORP FOR APPROVAL OF
POWER PURCHASE AGREEMENT
BETWEEN PACIFICORP AND SPANISH
FORK WIND PARK 2, LLC

DOCKET NO. 06-035-42
DOCKET NO. 06-035-76

COMMENTS ON PACIFICORP'S
RESPONSE TO WASATCH WIND'S
REQUEST FOR DELAY

Wasatch Wind hereby submits the following petition for Commission consideration, we request a prompt reply.

DATED this 17th day of August, 2006.

Richard S. Collins

/s/ _____
Richard S. Collins
Representing Wasatch Wind

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent by United States mail, postage prepaid, or by email this 11 day of, July 2005, to the following:

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Wasatch Wind would like the opportunity to comment on PacifiCorp's response to our petition for delay filed on August 16, 2006. PacifiCorp agrees to a short delay in the proceedings of one month or less and if good cause can be shown. PacifiCorp questions whether there is adequate clause for delay. It states that the accusatory tone of the petition compels a response from the Company. The Company then proceeds to level a series of unwarranted accusations against Wasatch Wind.

"First, SF Wind's modus operandi in these proceedings and in the contract approval proceedings has been one of claiming an urgent need for expedited treatment due to exigent circumstances..... only to be told that due to vacations, school and travel schedules, and now an apparent lack of transmission experts, SF Wind needs more time."

The current schedule to hear the testimony on avoided line loss was set after the approval of our PPA. The Company is correct in its assertion that Wasatch Wind pushed for an aggressive schedule to determine a methodology for avoided costs and to negotiate a PPA. We explained on the record many times our reason for requesting expedited treatment; a limited number of discounted turbines were available from a potential financial partner. Those turbines have been lost to us, allocated to other customers who were able to signed PPAs quicker than we were. We pushed hard because we felt we needed those turbines, their loss has been a financial set back for us. At times during those contract negotiations we felt it was the Company that was hindering progress. Now that we have a signed PPA, we have not asked for nor do we desire expedited treatment. In fact, we explicitly told the Commission and the Company that this issue could be decided over the next several months or more. It has been the Company that has insisted on an expedited schedule.

We have not heard a cogent reason why the Company needs this issue resolved so quickly. The Company asserts that the Company and its ratepayers may be materially harmed if this issue delays the starting date of our project even though the contract has many explicit clauses that protect the Company and its ratepayers if we fail to meet the start up date. The Company then accuses us of

suggesting that PacifiCorp somehow has incapacitated all local transmission experts in order to prevent them from working against PacifiCorp. This is untrue and a misinterpretation of our “tone”.

The Company then goes on to state that we have attempted to mislead the Commission and have accused the Company of bogging down the data request process. We did not make such a statement in our petition although we certainly could have. We believe that the Company of late has made considerable efforts to answer our data requests. But the formal written process simply breaks down when dealing with highly technical issues. We could save the Company much work and effort if we could ask some oral questions first and thereby eliminate unnecessary requests. We do not assume that the Company has unlimited resources to answer our data requests and have purposely limited our requests. When a technical issue is involved, it is extremely difficult to craft the right questions especially in written form. That is why a technical conference is so important. We find it particularly disingenuous that the Company insists on a delay of less than 30 days and then respectfully requests that the Commission clarify that the response time for data requests will be the default of 30 days. This would effectively eliminate our ability to ask any more written questions.

One economic theory of regulation cites asymmetry of information as the major weakness of regulation. Utilities have more and better information about the operations and finances of their systems and firms than regulators. Regulators are at a disadvantage because the utility will present evidence that is favorable to its interests. Management is beholden to shareholders, it is underpinning of capitalism for firm's to try to maximize it profits. In unregulated markets a firm's profits and behavior is constrained by competition. Utilities' profits and behavior must be constrained by regulators. This is why the data request procedure is critical to good regulation. It is precisely the problem with this docket and this issue. The utility has the information on its transmission system and its generators, it knows the financial details of its contracts and has ownership and access to models

and their results, all of these are not readily available to other parties. If intervening parties can not gain access to pertinent information then the utility has an unfair advantage. One could also assume that by rushing a proceeding a utility's asymmetric informational advantage is leveraged. It is incumbent on the regulatory body to see that the informational playing field is leveled.

Wasatch Wind needs a technical conference so we can gain access to critical information necessary to do our analysis and prepare our **direct** testimony. A technical conference held after the submission of our direct testimony would fail to remedy our situation. Delaying the scheduled dates by two weeks will not give us enough time to prepare our testimony. The Commission is considering a technical conference on August 29th; under the two week scenario direct testimony would be due September 1st allowing only three days to compile data, prepare models, make runs, analyze results and write testimony. This is an extremely tight schedule and even more onerous given that Wasatch Wind is a small Utah based company whose witnesses have other full time jobs. We implore the Commission to postpone deciding on a new schedule until after the technical conference. We understand the Commission's desire to keep its scheduling process sacrosanct. It is extremely difficult to coordinate a proceeding and to revise it on a whim is inappropriate. However, we believe that this case deserves a delay, we are not mismanaging our time or efforts, but circumstances beyond our control have simply prevented us from preparing our case. We do not believe that process should trump substance and that some issues deserve the time and effort needed to resolve them.

DATED this 18th day of August, 2006.

Richard S. Collins

/s/ _____
Richard S. Collins
Representing Wasatch Wind