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BEFORE THE PUBLIC SERVICE COMMISSION

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.) Docket No. 06-035-42
_____)

May 22, 2006 - 9:30 a.m.

Location: HEBER M. WELLS BUILDING

160 East 300 South, Room 403

Salt Lake City, Utah 84114

Reporter: Kathy Morgan, CSR, RPR
Notary Public in and for the State of Utah

A P P E A R A N C E S

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Members of the
Commission Present: RICHARD M. CAMPBELL, Chair
TED BOYER, Commissioner
RON ALLEN, Commissioner

Representing the
Division of Public
Utilities: PATRICIA SCHMID
OFFICE OF THE ATTORNEY
GENERAL
160 East 300 South
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Representing
PacifiCorp/Utah Power: DEAN BROCKBANK
PACIFICORP
201 South Main Street
Suite 2200
Salt Lake City, Utah 84111

Representing
Wasatch Wind: RICHARD COLLINS
WASATCH WIND
357 West 910 South
Suite A
Heber City, Utah 84032

I N D E X

Page

Statement by Mr. Brockbank 4
Statement by Dr. Collins 6
Statement by Ms. Schmid 6

1
2
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E X H I B I T S

		Submitted/ Admitted/Page
Number	Description	
DPU 1.0R	Rebuttal testimony of Andrea Coon	Not submitted
DPU 1.0SR	Surrebuttal testimony of Andrea Coon	Not submitted

1 JUNE 22, 2006 - 9:30 A.M. SALT LAKE CITY, UTAH

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P R O C E E D I N G S

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CHAIRMAN CAMPBELL: Let's go on the
6 record on docket 06-035-42, in the Matter of the
7 Petition of Wasatch Wind, LLC, for Approval of a
8 Contract for the Sale of Capacity and Energy from
9 their Proposed QF Facilities. And I want to take
10 appearances for the record, please.

11

MR. BROCKBANK: Dean Brockbank on behalf
12 of PacifiCorp.

13

MS. SCHMID: Patricia Schmid with the
14 Attorney General's Office for the Division of
15 Public Utilities.

16

DR. COLLINS: Rich Collins representing
17 Wasatch Wind.

18

CHAIRMAN CAMPBELL: All right, thank
19 you.

20

MR. LIVINGSTON: Tracy Livingston for
21 Wasatch Wind.

22

CHAIRMAN CAMPBELL: Thank you,
23 Mr. Livingston. Mr. Brockbank?

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MR. BROCKBANK: Mr. Chairman, thank you.
25 I'm not sure the Commission has seen or been made

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1 aware of the fact that Wasatch Wind and PacifiCorp
2 have been, over the last week, feverishly working
3 to avoid a contested hearing in these proceedings.
4 We've been working to execute a contract, and in
5 fact just yesterday we executed a contract and
6 submitted the contract for approval with the
7 Commission. We realize that the Commissioners
8 were not in the office, so to speak, yesterday, so
9 we wanted to make sure that everybody was aware
10 that we had submitted a contract for approval.

11 From PacifiCorp's perspective, there's
12 no need to have a contested hearing, with the
13 exception of one issue that I would point out, and
14 that is in the filings that we made yesterday, and
15 consistent with the Commission's prior orders on
16 line losses, we did not reach agreement on the
17 issue of line losses.

18 And we put a provision in the contract
19 that says that consistent with Commission orders,
20 we would address that on a case-by-case basis.
21 And in our request for approval of the contract,
22 we requested that the Commission also set up a
23 scheduling order in order to permit the parties to
24 submit testimony on the issue of line losses, so
25 that when we would have a hearing on approval of

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1 the contract, we could also have a discussion on
2 line losses, and then the parties both agreed to
3 amend the contract reflecting the Commission's
4 order on that issue.

5 PacifiCorp is ready to proceed to
6 hearing, but we don't see any need to do so.

7 CHAIRMAN CAMPBELL: Thank you.
8 Mr. Collins or Mr. Livingston, who's going to
9 speak for Wasatch Wind?

10 MR. COLLINS: Yes. We have entered into
11 a contract. I believe this contract resolves most
12 of the issues, all of the issues. It's a fair
13 compromise. I believe it's in the public
14 interests. I want to applaud or congratulate Utah
15 Power in its willingness to work with us to
16 recognize that each QF is a little bit different,
17 and that contract terms and conditions require
18 some sort of compromise in recognition of the fact
19 that each facility is going to be a little bit
20 different. And I hope in the future that they'll
21 keep the same open-mindedness in future contracts.

22 CHAIRMAN CAMPBELL: All right, thank
23 you. Ms. Schmid?

24 MS. SCHMID: Thank you. The Division
25 would also like to thank Wasatch Wind and

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1 PacifiCorp for their hard work on this. Contract
2 negotiation is time-consuming and frustrating, but
3 the Division has a witness here today that is
4 prepared to testify, if the Commission would like,
5 that the resulting contract is just, reasonable
6 and in the public interests. The Division's
7 witness, Ms. Andrea Coon, is also prepared to
8 testify on line losses today if the Commission so
9 desires.

10 Lastly, in keeping with the Division's
11 unique responsibility and its assigned task
12 pursuant to its legislative delegation, the
13 Division would like to point the Commission's
14 attention to provision 2.1, which is the Effective
15 Date Provision of the proposed contract, which
16 states that: "This agreement shall not become
17 effective until the Commission has determined that
18 the prices to be paid for net output and renewable
19 energy credits, if applicable, are just and
20 reasonable, in the public interests, and that the
21 cost incurred by PacifiCorp for purchases of net
22 output, capacity right and renewable energy
23 credits, if applicable, from the Seller are
24 legitimate expenses."

25 And I'd like to draw your attention to
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1 the next clause: "All of which the Commission will
2 allow PacifiCorp to recover in rates in Utah in
3 the event other jurisdictions deny recovery of the
4 proportionate share of said expenses."

5 I believe that similar language or
6 language seeking a similar effect has been put
7 forth in other contracts in the MSP agreement, and
8 I'd like to point that provision out for the
9 Commission's attention.

10 CHAIRMAN CAMPBELL: We're not prepared
11 to hear the contract today or your testimony
12 related to line losses, but I think we will take
13 Mr. Brockbank's suggestion and schedule a time to
14 hear the issues surrounding the contract, as well
15 as the issue of line losses.

16 MR. BROCKBANK: Mr. Chairman, if I could
17 make two additional points.

18 CHAIRMAN CAMPBELL: Go ahead.

19 MR. BROCKBANK: One of which is an error
20 in the contract that we filed yesterday, and I
21 will be making a correction filing, but I just
22 want, for the record, to mention this for
23 everybody's benefit. The definition of "scheduled
24 commercial operation date" is listed as
25 December 31st, 2007. That was an oversight. Both

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1 parties actually agreed that that scheduled
2 commercial operation date would be June 30th of
3 2008. PacifiCorp will be making a correction
4 filing via slip page, but I just wanted to make
5 sure that that was clear for the record.

6 And the second point that I wanted to
7 make, Mr. Chairman, was regarding that PacifiCorp
8 contemplated, when we filed this contract for
9 approval yesterday, that there would be a new
10 docket opened up. We don't necessarily feel
11 strongly one way or the other whether that should
12 fit under the current docket or a new docket, but
13 I would note that the current docket is called the
14 Wasatch Wind docket, and the entity that -- the
15 qualifying facility entity is actually called
16 Spanish Fork Wind Park II, LLC. And we thought
17 for the sake of setting aside the issues of the
18 past, which were contested issues in the contract
19 discussion, versus a contract approval, that a new
20 docket was merited. We would defer to however the
21 Commission wishes to proceed, if it would rather
22 just keep the same docket.

23 But again, for the sake of contract
24 dispute versus approval, and also a brand new name
25 of the entity that it is contracting under for the
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1 power purchase agreement, we thought it wise to
2 open a new docket. But we would defer to the
3 Commission on that.

4 CHAIRMAN CAMPBELL: All right. Any
5 further comments from any of the parties? What's
6 your understanding, Mr. Collins, as it relates to
7 the schedule to hear line losses?

8 MR. COLLINS: We have a little bit of a
9 concern about that. We feel that we need to have
10 sufficient time so we can investigate our position
11 on that and marshal up our resources to give our
12 best argument for line losses for our project. So
13 we're a little hesitant of combining the hearing
14 for approval with line losses, but it will depend
15 on the scheduling of when the contract approval
16 will occur. We would like -- the line loss issue
17 for us is sort of an add-on. I don't believe that
18 the outcome is going to lower our prices or going
19 to raise our prices, so we would like to see
20 contract approval as soon as possible. With a
21 signed contract, an approved contract, we can then
22 go out and get financing. The determination of
23 line losses will only increase the value of our
24 project. It shouldn't decrease it. We can't even
25 get financing without it, and so we want contract
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1 approval as soon as possible.

2 And on that point, we're a little
3 hesitant about changing the docket, just because
4 of the administrative time it takes for having
5 people intervene, and then opposition to
6 intervention, and that that might take a longer
7 time.

8 CHAIRMAN CAMPBELL: Any response?

9 MS. SCHMID: Please. If the Division
10 may state its position, the Division would like to
11 see the contract docket completed as soon as
12 possible. The line loss issue could be held for
13 later resolution. However, we would like to urge
14 the parties to resolve this issue quickly in light
15 of Wasatch Wind's, Spanish Fork's, need for
16 closure, recognizing that they are the ones
17 requesting a little bit more time. And also, in
18 light of the Division's heavy schedule, we'd like
19 to resolve this as soon as possible.

20 MR. BROCKBANK: Utah Power agrees with
21 that. I would point out, though, that both the
22 Division and Utah Power, if the Commission
23 wanted -- which we understand it doesn't -- could
24 testify on line losses today, my point being I
25 don't see that this is going to be a drawn-out

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1 process. I think if the Commission were to issue
2 an order today saying we need testimony on Monday,
3 we could probably do that. I mean, this is a very
4 narrow issue, and I would prefer -- I think it's a
5 much simpler issue than the contract approval. I
6 mean, the Commission has got to get familiar with
7 the contract. Line losses is something that we've
8 been discussing here for many, many, many months.
9 The Company would prefer to have it done
10 simultaneously so we do not have something hanging
11 out there making the contract less than complete.

12 MS. SCHMID: And the Division, in an
13 opposite position, I guess, would feel comfortable
14 with the contract approval and line losses being
15 bifurcated and the contract approved as soon as
16 possible.

17 CHAIRMAN CAMPBELL: This is not a big
18 deal, and I understand the parties' positions.
19 All right. I think what we'll do is just ask the
20 parties to meet with our secretary, Julie Orchard,
21 and schedule a time to have a hearing on the
22 contract, as well as the issue of line losses.
23 Anything further?

24 MS. SCHMID: Nothing from the Division.

25 CHAIRMAN CAMPBELL: All right. We'll
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1 adjourn.

2 (Whereupon, the proceedings were concluded at

3 10:02 a.m.)

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STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

 This is to certify that the foregoing
public hearing held before Chairman Campbell was
held in the State of Utah;

 That the above-named proceedings were
taken by me in stenotype, and thereafter caused by
me to be transcribed into typewriting, and that a
full, true, and correct transcription of said
testimony so taken and transcribed is set forth in
the foregoing pages.

 I further certify that I am not of kin or
otherwise associated with any of the parties to
said cause of action, and that I am not interested
in the event thereof.

 Witness my hand and official seal at Salt
Lake City, Utah, this 26th day of June, 2006.

 My commission expires:
 May 24, 2007

Kathy H. Morgan, CSR, RPR