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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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| IN THE MATTER OF THE PETITION OF<br>WASATCH WIND, LLC FOR APPROVAL<br>OF A CONTRACT FOR THE SALE OF<br>CAPACITY AND ENERGY FROM THEIR<br>PROPOSED QF FACILITIES | Docket No. 06-035-42<br>Response to PacifiCorp's Motion to Strike<br>Portions of Prefiled Direct Testimony of<br>Tracy Livingston |
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On May 24, 2006 PacifiCorp submitted a motion to strike portions of Tracy Livingston's prefiled direct testimony based on the fact that Mr. Livingston provided evidence that relied on information obtained during settlement discussions. The Company maintains that Rule 408 of the Utah Rules of Evidence has been violated. Wasatch Wind, LLC, agrees with the Company, but maintains that the violation was inadvertent. Witness Livingston was unaware of this rule and his legal advisor was out of the country and unable to review his final testimony before submittal. Given the situation, Wasatch Wind requests that it be allowed to resubmit the prefiled direct testimony of Tracy Livingston with the requested portions deleted. For the sake of clarity, the deleted portions have been replaced with language that does not reference settlement discussions. We anticipate that PacifiCorp will argue that new evidence has been submitted and the new language should be not be included on the record. This is not our intent

to provide new evidence. The additional language is added to convey the same meaning as the previous testimony while providing future readers with comprehensible testimony that is easily understood. Without this additional language the testimony of Mr. Livingston will be disjointed and confusing. The Company may argue that it needs additional time to respond to this new testimony, we submit that this testimony could be included in our surrebuttal testimony and thus the Company has in fact more time to respond. We request that the Commission accept this revised prefiled direct testimony of Tracy Livingston. For your convenience, we submit a redlined copy and a clean copy of the revised testimony.

Wasatch Wind hereby submits this Response in Docket No. 06-035-42

DATED this 1<sup>st</sup> day of June, 2006

Richard S. Collins

/s/ \_\_\_\_\_  
Richard S. Collins  
Representing Wasatch Wind

## **CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing Wasatch Wind LLC  
Response to **PACIFICORP'S MOTION TO STRIKE PORTIONS OF PREFILED  
SUPPLEMENTAL DIRECT TESTIMONY OF TRACY LIVINGSTON** was sent by  
electronic mail to the following on May 31, 2006:

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