Sophie Hayes (12546)
Utah Clean Energy
1014 2nd Ave.
Salt Lake City, UT 84103
801-363-4046
Attorney for Utah Clean Energy

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of Rocky Mountain Power for Approval of changes to Renewable Avoided Costs Methodology for Qualifying Facilities Projects Larger than Three Megawatts	**DOCKET NO. 12-035-100** **Utah Clean Energy Exhibit 1.0D**

DIRECT TESTIMONY OF SARAH WRIGHT
ON BEHALF OF
UTAH CLEAN ENERGY

[STAY PROCEEDING]

November 30, 2012

RESPECTFULLY SUBMITTED,
Utah Clean Energy

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Sophie Hayes
Attorney for Utah Clean Energy

INTRODUCTION

Q: Please state your name and business address.

A: My name is Sarah Wright. My business address is 1014 2nd Ave, Salt Lake City, Utah 84103.

Q: By whom are you employed and in what capacity?

A: I am the Executive Director of Utah Clean Energy, a non-profit public interest organization whose mission is to lead and accelerate the clean energy transformation with vision and expertise. We work to stop energy waste, create clean energy, and build a smart energy future.

Q: On whose behalf are you testifying?

A: I am testifying on behalf of Utah Clean Energy (UCE).

Q: Please provide your professional experience and qualifications.

A: I am the founder and director of Utah Clean Energy. Through my work with Utah Clean Energy over the last 11 years, I have been involved in a number of regulatory dockets, including Integrated Resource Planning, rate cases, tariff filings, and other dockets relating to energy efficiency, renewable energy, and net metering. I serve on both Rocky Mountain Power's and Questar Gas Company's Demand Side Management Advisory Committees.

I have over ten years of energy policy experience working on state, local and national energy policy, providing expertise and policy support for renewable energy and energy efficiency. I have served on numerous energy policy working groups and taskforces, including the Energy Efficiency and Energy Development Committees supporting Governor Herbert's Energy Task Force and Ten Year Energy Plan; the Governor's Utah Renewable Energy Zone Task Force; Governor Huntsman's Energy Advisory Council and Blue Ribbon Climate Change

Advisory Council; Utah's Legislative Energy Policy Workgroup, and Salt Lake City's Climate Action Task Force. I also served on the State of Utah, Division of Air Quality PM2.5 State Implementation Plan workgroup. Currently, I serve on the Board of Directors for Interwest Energy Alliance and the Interstate Renewable Energy Council Regulatory Advisory Board for the US Department of Energy Sunshot Initiative.

For15 years prior to founding Utah Clean Energy, I was an occupational health and environmental consultant working on occupational health and ambient air quality issues for a wide variety of commercial, industrial, and governmental clients across the west.

I have a BS in Geology from Bradley University in Peoria, Illinois and a Master of Science in Public Health from the University of Utah in Salt Lake City. My resume is attached at the end of my testimony.

Q: Have you testified previously before this Commission?

A: Yes. I testified on behalf of Utah Clean Energy in Docket No. 05-057-T01 (In the matter of the joint application of Questar Gas Company, the Division of Public Utilities, and Utah Clean Energy for approval of the Conservation Enabling Tariff adjustment option and accounting orders) and filed testimony in Rocky Mountain Power's Energy Cost Adjustment Mechanism proceedings **(**Docket No. 09-035-15**)** and in Rocky Mountain Power's most recent two general rate cases (Docket Nos. 10-035-124 and 11-035-200)**.**

OVERVIEW AND CONCLUSIONS

Q: What is Utah Clean Energy's interest in this docket?

A: Utah Clean Energy strives to create a more efficient, cleaner, and smarter energy future. We envision and enable increased utilization of energy efficiency, distributed generation, and

utility-scale renewable energy. Our long-range vision of the smart energy future includes a more modern, agile, diversified and secure energy system that can readily take advantage of new capabilities for saving energy and expand the use of renewable energy, distributed generation, demand response, energy storage, electric vehicles and the use of information and control technologies.

The Public Utility Regulatory Policy Act (PURPA) is an important mechanism for facilitating renewable energy development. Indeed, as state renewable portfolio standards are met, PURPA's ability to encourage renewable energy development will become more and more critical for diversifying utility resource mixes and reducing our reliance on finite and polluting fossil fuels. Utah Clean Energy's interest in this docket is safeguarding Utah's proper implementation of the PURPA laws and regulations.

Q: What is the purpose of your testimony in this phase of the Docket?

A: The purpose of my testimony is to provide an overview of the background and purpose of PURPA, specifically the requirements of Title II, Section 210, and to show that Rocky Mountain Power's (the Company) Request for Agency Action Motion to Stay the Commission's 2005 avoided cost pricing methodology for wind qualifying facilities (QF) is inconsistent with PURPA and that granting the motion would be bad public policy and bad for Utah. Furthermore, because there are substantial benefits to encouraging the development of small power production facilities, it is unlikely that ratepayers will be harmed if the stay is denied.

PURPA POLICY AND AVOIDED COSTS

Q: Please provide an overview of the historical context and purpose of PURPA, specifically Title II, Section 210.

A: PURPA was passed in 1978 as part of the National Energy Act in the wake of costly fuel shortages. Section 210 of Title II was enacted specifically to encourage the development of electricity generation from cogeneration and small power production facilities, and therefore to reduce the use of and conserve fossil fuel resources. Small power production facilities are defined as having a production capacity of no more than 80 megawatts and use biomass, waste, or renewable resources (wind, solar, or waste energy, for example) to produce electric power. 16 U.S.C. § 796(17)(A).

In a case upholding the constitutionality of Title II, Section 210 of PURPA, the Supreme Court of the United States provided a succinct and thorough summary of the purpose and components of the section, which I include here:

> Section 210 of PURPA's Title II seeks to *encourage the development of cogeneration and small power production facilities*. Congress believed that increased use of these sources of energy would *reduce the demand for traditional fossil fuels*. But it also felt that two problems impeded the development of nontraditional generating facilities: (1) *traditional electricity utilities were reluctant to purchase power from, and to sell power to, the nontraditional facilities*, and (2) the regulation of these alternative energy sources by state and federal utility authorities imposed *financial burdens* upon the nontraditional facilities and thus discouraged their development.
>
> In order to overcome the first of these perceived problems, § 210(a) directs [the Federal Energy Regulatory Commission] FERC, in consultation with state regulatory authorities, to promulgate "such rules as it determines necessary to encourage cogeneration and small power production," including rules *requiring* utilities to offer to sell electricity to, and purchase electricity from, qualifying cogeneration and small power production facilities. Section 210(f) requires each state regulatory authority and nonregulated utility to implement FERC's rules. And § 210(h) authorizes FERC to enforce this requirement in federal court against any state authority or nonregulated utility; if FERC fails to act after request, any qualifying utility may bring suit.
>
> To solve the second problem perceived by Congress, § 210(e) directs FERC to prescribe rules exempting the favored cogeneration and small power production facilities from certain state and federal laws governing electric utilities.

> Pursuant to this statutory obligation, FERC has adopted regulations relating to purchases and sales of electricity to and from cogeneration and small power production facilities. These afford state regulatory authorities and nonregulated utilities latitude in determining the manner in which the regulations are to be implemented. Thus, a state commission may comply with the statutory requirements by issuing regulations, by resolving disputes on a case-by-case basis, or by taking any other action reasonably designed to give effect to FERC's rules.

FERC v. Mississippi, 456 U.S. 741, 750-51 (1980) (emphasis added) (citations and footnotes omitted).

In a subsequent case, the Supreme Court explained the Congressional intent regarding the rates to be paid to qualifying facilities, and upheld FERC's decision to require that utilities pay for full avoided costs rather than a lesser amount:

> Congress provided that the rate to be set by the Commission "(1) shall be just and reasonable to the electric consumers of the electric utility and in the public interest, and (2) *shall not discriminate against qualifying cogenerators or qualifying small power producers*. No such rule prescribed under subsection (a) of this section shall provide for a rate which exceeds the incremental cost to the electric utility of alternative electric energy."
>
> Following rulemaking proceedings, FERC promulgated regulations governing transactions between utilities and those cogeneration and small power production facilities, designated as "qualifying facilities," that may invoke the provisions of PURPA to sell electricity to and purchase electricity from utilities.
>
> The first regulation . . . requires a utility to purchase electricity from a qualifying facility at a rate equal to the utility's *full avoided cost*. The utility's full avoided cost is "the cost to the electric utility of the electric energy which, but for the purchase from such cogenerator or small power producer, such utility would generate or purchase from another source." In its order accompanying the promulgation of this rule, FERC explained its decision to set the rate at full avoided cost rather than at a level that would result in direct rate savings for utility customers by permitting a utility to obtain energy at a cost less than the cost to the utility of producing the energy itself or purchasing it from an alternative source. *The Commission emphasized the need to provide incentives for the development of cogeneration and small power production*:

> "In most instances, if part of the savings from cogeneration and small power production were allocated among the utilities' ratepayers, any rate reductions will be insignificant for any individual customer. On the other hand, if these savings are allocated to the relatively small class of qualifying cogenerators and small power producers, *they may provide a significant incentive for a higher growth rate of these technologies*."
>
> The Commission noted that "*ratepayers and the nation as a whole will benefit from the decreased reliance on scarce fossil fuels, such as oil and gas, and the more efficient use of energy*."

American Paper Institute v. AEP, 461 U.S. 402, 404-06 (1983) (emphasis added) (citations and footnotes omitted).

Q: Why are the foregoing quotations important for the Commission's determination regarding the Company's motion for a stay of the 2005 pricing methodology?

Of particular note in the foregoing with relevance to the current docket is Congress's acknowledgement of the following: the importance of relying less on fossil-fueled resources, the reluctance of traditional utilities to purchase electricity from small power producers, and the resulting need to encourage small power production through laws and regulations.

Although natural gas prices are currently low, the objective of relying less on fossil-fueled resources is no less relevant today, especially given fuel price volatility and the contribution of fossil fuels to climate change. The policy considerations underpinning PURPA are thus very relevant to the Commission's evaluation of the Company's motion to stay implementation of the 2005 avoided cost pricing methodology.

Because the 2005 methodology was approved as a means of implementing PURPA (and effectuating its policy objectives), it would be an inappropriate shift in policy to arrest its

application before the Commission approves a new methodology that it finds properly implements PURPA policies and regulations.

The policy underpinning PURPA is clear: to encourage development from cogeneration and small power production facilities. An approved methodology that pays a relatively higher avoided cost will encourage more QF development. To grant the stay before thoroughly reexamining the current pricing methodology would be to create policy that discourages small power production and therefore thwart the purposes of PURPA.

Furthermore, forcing QFs to defend their right to receive pricing under the currently approved avoided cost pricing methodology by asking for a preliminary stay likewise defeats the purposes of PURPA because one of the explicit objectives of PURPA was to reduce barriers, including financial and regulatory barriers, to the production of electricity by cogeneration and small power production facilities.

Q: The Company states that the 2005 methodology results in paying QFs more than avoided costs. What is your response?

A: First, my response is that the 2005 method needs to be re-evaluated before the Commission can find that it results in costs exceeding the utility's avoided costs. Therefore, a preliminary stay of the method is inappropriate. The stay must be denied in order to continuously implement PURPA in Utah.

Additionally, the Company has not demonstrated that the 2005 methodology necessarily results in prices that exceed avoided costs or are necessarily harmful to ratepayers. The regulations effectuating PURPA provide the following:

> Each qualifying facility shall have the option either (1) To provide energy as the qualifying facility determines such energy to be available for such purchases, in which case the rates for such purchases shall be based on the purchasing utility's avoided costs

> calculated at the time of delivery; or (2) To provide energy or capacity pursuant to a legally enforceable obligation for the delivery of energy or capacity over a specified term, in which case the rates for such purchases shall, at the option of the qualifying facility exercised prior to the beginning of the specified term, be based on either: (i) The avoided costs calculated at the time of delivery; or (ii) The avoided costs calculated at the time the obligation is incurred.

18 C.F.R. § 292.304(d).

In order to secure financing, qualifying facilities, wind facilities in particular, generally select pricing based on an obligation covering a specified duration, with costs calculated at the time the obligation is incurred. Nevertheless, it is theoretically possible that calculating avoided costs at the time of delivery would result in higher avoided costs. Moreover, calculating costs for a long term contract at the time a long term obligation is incurred disregards unexpected fluctuations in avoided costs components, such as fuel price.

For example, according to Mr. Clements' calculations starting on line 167 of his direct testimony, if the Company's gas projections are perfect, customers will pay approximately 15% more for energy from wind QFs over 20 years. However, natural gas price projections are often incorrect and, given current very low gas prices, actual gas prices may be much higher than the cost projection used in the Company's avoided cost projections. In this case, ratepayers could save money by using the wind-specific avoided cost methodology. The current indicative pricing method is an attempt, to at least in part, to incorporate the risk mitigating hedge that renewable energy provides.

It is not possible for the Commission to determine that the Company's preference for one methodology over another is in the public interest without a full evaluation of the avoided cost pricing methodologies. The Company's reasons for requesting the stay do not lend support for its ignoring the 2005 methodology (which was recently affirmed in Docket No. 12-2557-01). So

despite the Company's assertions that the current methodology results in prices that exceed avoided costs, the Commission should not grant the preliminary stay.

Q: Would granting the Company's motion to stay have a dampening effect on wind development in Utah?

A: Certainly. Only one project to date, the Spanish Fork Wind project, has been built using the wind-specific pricing method. Based on my knowledge of the current state of wind development, I would say it is difficult, if not impossible, for wind developers to build wind projects in Utah given Proxy/PDDRR pricing.

Q: In addition to the hedge value discussed above, do renewable QF projects have the potential to provide other benefits to Utah ratepayers?

A: Yes, in addition to the hedging value, renewable energy projects can bring considerable additional benefits to Utah. Currently there is only one QF wind project in Utah: the approximately 20 MW Spanish Fork project. While I do not have readily at hand the economic development benefits from this project, I do have information on the economic development benefits from the First Wind Project in Milford.

The First Wind project is not a QF project, and it was built in two phases, each over the 80 MW QF limit. But its economic development benefits would be similar to that of four wind QF projects of approximately 77 MW each. The project created 400 FTE construction jobs and 35 fulltime operations jobs in rural Utah, and the property taxes from the project enabled the construction of a new school. (Please see the exhibit attached to my testimony for First Wind's fact sheet.) Prior to the first 200 MW phase being developed in Beaver County, the County had an assessed value of just under $600 million. After the completion of the first phase, the County

had an assessed value of over $1 billion, bringing new, much needed tax revenues to the County. Clearly, the benefits provided by QF development could be significant for Utah and its citizens.

CONCLUSION

Q: What is your recommendation for the Commission regarding the Company's motion to stay the 2005 methodology?

A: I recommend the Commission deny the stay, pending a full investigation of the avoided cost pricing methodology for renewable resources. Without such investigation, the Commission cannot determine whether ratepayers are harmed. There are significant benefits for Utah that can result from wind QF development, which is unlikely to happen under the Proxy/PDDRR pricing methodology. Additionally, given that the Commission has already approved a method for calculating avoided costs for wind QFs that was designed to implement PURPA, it is inappropriate to interrupt this implementation of Federal policy by preliminarily halting its effect.

Q: Does that conclude your testimony?

A: Yes.