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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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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 2.0R**

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REBUTTAL TESTIMONY OF SARAH WRIGHT

ON BEHALF OF  
UTAH CLEAN ENERGY

[STAY PROCEEDING]

December 7, 2012

RESPECTFULLY SUBMITTED,  
Utah Clean Energy

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Sophie Hayes  
Attorney for Utah Clean Energy

1   **INTRODUCTION**

2   **Q:    Please state your name and business address.**

3   A:    My name is Sarah Wright. My business address is 1014 2<sup>nd</sup> Ave, Salt Lake City, Utah  
4   84103.

5   **Q:    Did you file Direct Testimony on behalf of Utah Clean Energy in this Docket on  
6   November 30, 2012?**

7   A:    Yes.

8   **Q:    What is the purpose of your rebuttal testimony?**

9   A:    The purpose of my rebuttal testimony is to address certain points in the direct testimony  
10   of Bela Vastag for the Office of Consumer Services (Office) and Charles Peterson for the  
11   Division of Public Utilities (Division). To wit, I will address what seems to be a lack of clarity  
12   among all of the parties supportive of the stay regarding the effective date of the potential stay  
13   and the Division's recommendations regarding the applicability of the stay for wind projects  
14   hoping to receive market proxy pricing that are already in the Company's QF queue.

15

16   **EFFECTIVE DATE OF POTENTIAL STAY**

17   **Q:    What are parties' recommendations regarding the effective date of Rocky Mountain  
18   Power's proposed stay?**

19   A:    Rocky Mountain Power proposed that the stay be effective retroactively from the date of  
20   its motion, October 9, 2012. The Office supports this proposal. The Division recommends that  
21   the Commission approve the stay for all projects not known as of October 9, 2012, while known  
22   and existing projects should be evaluated individually.

23 **Q: Why is there confusion regarding the effective date of the stay if all parties agree**  
24 **that October 9, 2012 is an important milestone?**

25 A: According to the testimony of Paul Clements (lines 153-60) on behalf of Rocky  
26 Mountain Power, the Company has been providing pricing estimates to wind QF projects based  
27 on the Proxy/PDDRR method since May of 2012. Therefore, the Company has effectively  
28 already initiated its own, non-approved stay of the market proxy methodology for wind QFs for  
29 the last seven months. None of the parties supporting any form of the proposed stay has  
30 addressed the fact that the Company has been non-compliant with the 2005 methodology for  
31 seven months or provided justification for granting a stay retroactively effective from May of  
32 2012.

33 Additionally, between May and October 9, 2012, the Commission re-affirmed its wind  
34 QF Market Proxy pricing methodology in Docket 12-2557-01 for wind QFs up to the IRP target  
35 amount of wind. There is no reason why Blue Mountain should be singled out to benefit from  
36 the Commission's reaffirmation of the existing methodology applicable to all wind projects up to  
37 the IRP target amount prior to a complete examination of the methodology. I recommend that  
38 the Commission deny the stay, particularly retroactively. If the Commission approves the stay, it  
39 will effectively be implementing a stay as of May 2012 rather than October 2012, which is  
40 inconsistent with its Order in Docket No. 12-2557-01 and is unsupported by testimony in the  
41 current docket.

42

### 43 **APPLICABILITY OF PROPOSED STAY TO EXISTING, QUEUED PROJECTS**

44 **Q: What is the Division's recommendation with regard to the applicability of the**  
45 **proposed stay to projects already underway?**

46 A: The Division recommends, first, that QFs similarly situated to the Blue Mountain project  
47 in terms of project completion should receive pricing based on the Market Proxy method;  
48 second, that the Market Proxy pricing option should be available to these projects only if the  
49 Company signs a power purchase agreement by September 1, 2013; and third, that projects who  
50 have not applied to the Company's interconnection agreement process as of October 9, 2012  
51 should be subject to the stay. I wish to address these recommendations.

52 **Q: What is your response to the Division's first recommendation, that wind QF**  
53 **projects "similarly situated" to Blue Mountain receive pricing based on the Market Proxy**  
54 **method?**

55 A: I support the Division's recommendation to the extent that it recognizes that it is  
56 inappropriate to discriminate against the other wind QF projects in Rocky Mountain Power's  
57 queue. However, "similarly situated" is ambiguous and determining which projects are thus  
58 situated will require factual determinations that implicate developers who are not necessarily  
59 parties to the current docket. Therefore, I fail to see how this is a workable recommendation and  
60 recommend, instead, that the Commission deny the stay while parties examine the merits of the  
61 current methodology.

62 Furthermore, the Division's approach will put projects at even greater risk of non-  
63 completion due to additional uncertainty. The potential wind QF projects are already threatened  
64 because the Company has, for the last seven months, refused to comply with Commission orders  
65 from Docket Nos. 03-035-14 and 12-2557-01. It would be inappropriate to reward the Company  
66 for its non-compliance, especially in a way that undermines Utah policy priorities, such as  
67 market competition, energy production, and economic development.

68 **Q: What is your response to the Division's second recommendation, that wind QF**  
69 **projects must have signed PPAs by September 1, 2013?**

70 A: I appreciate the Division's efforts to acknowledge the extensive work of QF projects  
71 already underway. However, it is my opinion that a better approach for making sure that all  
72 projects are treated in a non-discriminatory way is to deny the stay until we have fully examined  
73 the methodology and the Commission has affirmed it or a new one. This will ensure that no  
74 specific project is retroactively penalized for attempting to sell electricity as a wind QF  
75 according to the currently effective Commission ruling.

76 Furthermore, requiring QFs to have signed PPAs by a specific date is, in my view,  
77 inconsistent with FERC's interpretations of PURPA regulations. I believe it would be improper  
78 for this Commission to require QFs to have fully executed contracts by a specific date in order to  
79 receive Market Proxy pricing.

80 FERC has concluded that utilities may not circumvent PURPA by failing to sign a PPA  
81 by a specific date. As I mentioned in my direct testimony, PURPA requires utilities to offer to  
82 pay for electricity generation from qualifying facilities:

83 Each qualifying facility shall have the option either (1) To provide energy as the  
84 qualifying facility determines such energy to be available for such purchases . . . or (2)  
85 To provide energy or capacity *pursuant to a legally enforceable obligation* for the  
86 delivery of energy or capacity over a specified term . . . .

87  
88 18 C.F.R. § 292.304(d) (emphasis added).

89 In a recent wind QF dispute involving Rocky Mountain Power in Idaho that came before  
90 FERC, FERC explained that

91 [T]he phrase legally enforceable obligation is broader simply than a contract between an  
92 electric utility and a QF and that *the phrase is used to prevent an electric utility from*

93            *avoiding its PURPA obligations by refusing to sign a contract [or] from delaying the*  
94            *signing of a contract, so that a later and lower avoided cost is applicable.*

95  
96    *Cedar Creek Wind, LLC, 137 FERC P 61006 (2011) (emphasis added).*

97            The Commission should not accept the Division’s recommendation, which appears to be  
98    wholly inconsistent with FERC’s interpretations of PURPA regulations. Moreover, the  
99    Commission should find that the proposed stay, especially as applied inconsistently and  
100    discriminatorily to individual wind QF projects, is bad policy as well as inconsistent with the  
101    purposes and policies supporting PURPA, as described in my direct testimony.

102    **Q:    What is your response to the Division’s third recommendation, that wind QF**  
103    **projects must have applied to Rocky Mountain Power’s interconnection agreement process**  
104    **by October 9, 2012 or be subject to the stay?**

105    A:    Given that the Company has been refusing to provide Market Proxy pricing since May  
106    despite Commission order, it is possible that wind developers have waited to apply for  
107    interconnection pending resolution of this issue. Therefore, the October 9, 2012 interconnection  
108    deadline strikes me as punitive to developers, when it is the Company who has been  
109    noncompliant.

110    **Q:    Does that conclude your testimony?**

111    A:    Yes, it does.