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 Cost Methodology for Qualifying Facilities Projects Larger than Three Megawatts	**DOCKET NO. 12-035-100** **Utah Clean Energy** **Response to Rocky Mountain Power's Petition for Review and Clarification**

On September 16, 2013, Rocky Mountain Power ("the Company") filed a petition for "review and clarification" of two issues from the Commission's August 16 Order on Phase II of the above-captioned proceeding. Utah Clean Energy hereby submits its response to the Company's petition.

1. The Commission should deny the Company's request with regard to ownership of renewable energy credits when avoided cost pricing is based on the IRP cost of a renewable resource, because it directly contradicts clear Commission guidance. The Company requests clarification that when the Company's Integrated Resource Plan ("IRP") includes a cost-effective renewable resource of the same type as a qualifying facility (and capacity payments are based on the capital costs of the renewable resource in the IRP), the Company should get the RECs associated with QF electricity production.

The Company's petition states,

> The presumption of the [Commission's order] is that, under a scenario where the QF is deferring a renewable resource that the Company would otherwise build…, the QF would be compensated through avoided cost payments for the capital costs of the renewable resource *plus* separately receive the value of the RECs. The Company submits that it was not the Commission's intent to make such a finding. Transferring ownership of RECs to the QF where the QF is deferring a Company-owned/developed resource under the IRP, where the Company would keep the RECs, would be in direct conflict with the ratepayer indifference standard… To clarify that this is not what the Commission intended, the Commission should make an express finding that when avoided cost payments are based on the capital costs of a Company-owned/developed renewable resource that the QF is deferring, the Company will keep the RECs. The QF retains the RECs only when avoided costs payments are based on the capital costs of a non-renewable thermal resource.[1]

The Company's position is not supported by the record in this case or past Commission precedent; rather, the record and Commission orders establish clear direction on ownership of RECs that is both applicable to the issue raised by the Company and consistent with the principle of ratepayer indifference. To wit, because the IRP does not recognize a quantified REC value, avoided cost pricing based on IRP resource costs does not include compensation for RECs; therefore, RECs should be retained by the QF unless otherwise compensated or provided for in a negotiated contract.

The Company's argument for getting RECs when the deferrable resource is a renewable resource is based on the notion that if the Company owns or develops a renewable resource pursuant to the IRP, the Company keeps the RECs associated with that resource; analogously, if the Company bases renewable avoided cost pricing on the capital cost of an IRP resource, it should keep the RECs generated by the renewable QF because the "costs incurred to build the renewable resource *are inclusive of any REC value* associated with that resource."[2] In other words, because IRP *costs* for renewable resources allegedly include REC *value* to the utility, the

[1] Docket No. 12-035-100, *Rocky Mountain Power's Petition for Review and Clarification* (September 16, 2013), page 2 ("RMP Petition") (emphasis added). The Company's petition assumes that IRP resource selection implies Company ownership; however, the IRP does not address resource ownership.
[2] RMP Petition at 3.

Company should keep the RECs associated with QF electricity whose prices are based on IRP *costs*. The Company notes that the IRP does not assign a specific value (price) to RECs,[3] but argues that "capital costs used in the IRP for the renewable resource are inclusive of the Company receiving the RECs as part of the output associated with that renewable resource."[4]

The Company further argues that its position is consistent with the 2005 Commission order that created the Market Proxy method for wind QFs:

> Under the 'market proxy' method approved in the 2005 Order, the Commission determined, "[S]ince the payment to a wind QF is the same as a wind resource procured through competitive bidding, the ratepayer indifference standard is addressed…" The 2005 Order then addresses the issue of REC ownership by establishing that the Company retains the RECs from wind QFs if the Company retains the RECs under the market proxy contract since the market proxy contract price is what is used to set the avoided cost. The same concept applies when using the IRP renewable resource proxy method what was approved in the [2013] Order.[5]

The issue here is, as the Company indicated, how to maintain ratepayer indifference when the "IRP deferrable resource" is a renewable resource; in other words, should RECs stay with the developer or be transferred to the utility when capacity pricing is based on IRP resource costs? Contrary to the Company's position, consistency with Commission orders regarding REC ownership dictates that QFs should keep RECs unless compensated for them specifically.

Because the IRP does not quantify a REC value, avoided cost pricing based on IRP costs does not include a REC price. In the IRP, renewable resources have to compete with non-renewable resources without consideration given to their additional value associated with renewable energy credits.[6] Thus, if renewables are selected in the IRP, they are selected *despite*

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[3] *See* RMP Petition at 3 ("the value of the capacity and energy and the value of the REC are not determined separately for a renewable resource in the current IRP").
[4] RMP Petition at 3.
[5] RMP Petition at 4.
[6] REC value is not a component of renewable resource assumptions in the IRP: "The Company's IRPs no longer calculate a specific direct value for RECs in dollars per MWh, but instead determine a preferred portfolio based on

additional value provided by RECs. Therefore, although RECs provide additional actual *value* to the utility, that value is not quantified as a REC *price* in the resource selection process and cannot therefore be compensated by pricing based on IRP assumptions.

This precise issue—that avoided cost pricing does not by default include a REC value—was clearly determined by the Commission in its 2013 avoided costs order. Basing avoided costs pricing on IRP costs, which do not include a REC price, does not change this conclusion. In the 2013 avoided costs order, the Commission clearly articulated that its avoided cost pricing methodologies do not include compensation for RECs:

> Consistent with PURPA, our approved avoided cost methods compensate QFs for energy and capacity only. Thus, the Commission disagrees with PacifiCorp's contention that RECs 'are part of what the utility is buying with the payment of avoided costs,' and that if 'the Company were to pay a QF separately for the RECs, then, the Company and its customers would be paying twice for RECs.'"[7]

Furthermore, the Company's second argument for giving RECs to the utility when pricing is based on IRP renewable resource costs—that it is consistent with the 2005 Order and the market proxy method—actually contradicts the Company's argument and supports QFs keeping RECs, rather than transferring them to the utility. Because avoided cost pricing based on IRP resource costs *that do not include a REC price* does not compensate a QF for RECs, the QF should retain RECs unless it negotiates otherwise. A review of the entire REC-ownership section of the Commission's 2005 decision is instructive:

> The IRP 2004 recognizes the value of a Renewable Energy Credit ("REC"), a tradeable value in emerging markets, and includes this value as a credit in the evaluation of wind versus alternative supply-side resources. A value of $5.00 per megawatt hour is attributed for the first five years of service and this value declines with inflation in real terms. *Based in part on this credit to the cost of wind*, the IRP selects 1,400 megawatts of wind power as cost effective.

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resource needs and compliance obligations." Docket No. 12-035-100, *Direct Testimony of Paul H. Clements* (January 31, 2013), lines 55-57.

[7] Docket No. 12-035-100, *Order on Phase II Issues* (August 16, 2013), page 9 ("2013 Order").

> All parties agree that if PacifiCorp pays for the RECs, it owns the RECs. The Company additionally proposes that it own the RECs if pricing is based on *either the IRP wind resource proxy or the RFP market based price proxy*. Since we adopt the RFP market-based price proxy rather than any combination that would include the IRP wind resource proxy, we focus our consideration with respect to market-based wind contracts. In the RFP wind contract, on record in this case, PacifiCorp paid for the RECs and therefore owns the RECs and the price includes the value of the RECs. Wasatch Wind and Pioneer propose allowing wind QFs to buy back the RECs at the IRP value and retain ownership of the RECs at its choice. When asked in hearing if it could support this proposal, PacifiCorp said it would respond the next hearing day. We have no record of a response from PacifiCorp on this proposal. In the end, we find the issue is a contractual matter between the QF and PacifiCorp. We reason that ratepayers should be indifferent whether PacifiCorp never pays for the RECs or if it buys them and sells them. Therefore, we approve Wasatch Wind and Pioneer's proposal allowing QFs to *buy back the RECs at the IRP value* if PacifiCorp owns the RECs in the last executed wind market-based RFP contract.[8]

Commission guidance on avoided cost pricing and REC ownership is clear and consistent with ratepayer indifference. In both the 2005 and 2013 Orders, the Commission recognized that the Company (and ratepayers) should receive RECs associated with QF generation to the extent that the Company (and ratepayers) pay for the RECs. In 2005, the Commission focused its attention on avoided cost pricing based on market contracts that included a REC price: if the market price included the value of RECs, "PacifiCorp paid for the RECs and therefore owns the RECs." Similarly, if avoided cost pricing is based on IRP costs that *include* a REC price, then the Company pays for the RECs and owns the RECs. However, if the IRP selects renewables without a REC credit applied to their costs, the Company does not pay for RECs through avoided costs pricing and cannot therefore own the RECs.

Granting the Company's recommendation to "clarify" the 2013 Order on this issue would, in fact, alter the Commission's ruling without evidentiary or precedential support. The record in this case is clear: the IRP does not quantify a REC value.[9] Therefore, avoided costs pricing based on IRP costs does not include compensation for RECs. Therefore, the

[8] Docket No. 03-035-14, *Report and Order* (October 31, 2005), pages 24-25 ("2005 Order") (emphasis added).
[9] *Supra* note 6.

Commission's conclusion—that its avoided cost pricing methodologies do not compensate QFs for more than energy and capacity—applies when pricing is based on IRP resource costs.

To the extent the Commission decides to provide clarification on this issue, Utah Clean Energy recommends that the Commission make an express finding that when avoided cost payments are based on IRP resource costs, RECs are retained by the QF *unless the IRP resource costs include a specific REC-price credit*. In the event that IRP resource costs include a specific REC price (or price curve), such that avoided cost compensation includes compensation for RECs, the Commission should clarify that a renewable QF may "buy back" the REC from the Company at the IRP REC price. This is consistent with ratepayer indifference and the 2005 and 2013 Orders, and will encourage accurate REC price forecasting.

2. If the Commission provides clarification on integration costs, it should refrain from approving a specific wind integration methodology for use in avoided costs calculations, but allow for methods to be reviewed and updated. Additionally, the Commission should not provide clarity that indefinitely defines solar integration costs in terms of percentages of wind integration costs. The Company's second request is for the Commission to clarify that the Company's wind integration methodology is reasonable and that the Company may update the "stream of dollars per megawatt hour…to capture changing market conditions."[10] The Company further requests that the Commission clarify that solar integration charges are percentages of wind integration charges rather than set amounts.[11]

a. Wind. With regard to wind integration charges, Utah Clean Energy does not object to the Commission providing clarification that "cost streams" factored into the Company's wind integration calculations may be updated periodically to reflect more accurate and current costs,

[10] RMP Petition at 5 ("It is not clear from the Commission's finding if the stream of dollars per megawatt hour that was used to arrive at the $4.35 integration charge can be updated as per the Company's methodology").
[11] RMP Petition at 6.

so long as those cost streams are reviewable. Such a clarification is consistent with the Commission's interest in keeping avoided costs up to date and the requirement for setting avoided costs in a manner consistent with Integrated Resource Planning.

On the other hand, Utah Clean Energy opposes the Company's request to the extent that it asks the Commission to approve the 2012 Wind Integration Study in this docket.[12] IRP dockets and rate cases provide appropriate forums for vetting, updating, and acknowledging integration methodologies on an ongoing basis. Methods employed to calculate integration charges (in addition to cost streams) should be improved upon and updated over time, rather than fixed. For example, the 2013 IRP Action Plan states that PacifiCorp's wind integration study will be updated for the 2015 IRP, and will consider implications of an energy imbalance market along with technical feedback.[13]

Because avoided costs must be calculated in a manner consistent with the IRP and because IRP and integration studies are updated and reviewed on a regular basis, the Commission need not approve a specific integration charge methodology for avoided costs in this docket. IRP guidance specifically states that avoided costs "shall be determined in a manner consistent with the Company's Integrated Resource Plan."[14] And in its 2013 Order, the Commission expressed an interest in keeping avoided costs current with changing conditions and consistent with the Company's IRP.[15] The Commission's current ruling provides flexibility necessary to keep avoided costs consistent with the IRP.

The Commission's 2013 Order does not currently preclude and appears to contemplate allowing integration methodologies to be updated. In the Order, the Commission noted that,

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[12] It is not clear from the Company's petition that this is the relief being sought.
[13] PacifiCorp 2013 Integrated Resource Plan, Volume I (April 30, 2013), page 245.
[14] Docket No. 90-2035-01, *Report and Order on Standards and Guidelines* (June 18, 1992), page 48.
[15] "This action will ensure our method for determining indicative prices will continue to reflect changing avoided costs in light of changing conditions present in PacifiCorp's ongoing IRPs." 2013 Order at 18.

> No party opposed PacifiCorp's proposed wind integration costs as contained in the [2012 Wind Integration Study ("WIS")]. The Office states that while the WIS has not been approved by the Commission nor has it yet been endorsed by the Technical Review Committee ("TRC") guiding its development, it is the most practical alternative available at this time. The Office recommends implementing the proposed $4.35 wind integration charge. Once the WIS has been fully vetted by the TRC and the Commission in the IRP process or a future general rate case, the Office recommends the Commission consider applying any necessary changes to the wind integration value based on the comments.[16]

Having noted general consensus not opposing reliance on the 2012 WIS, the Commission found that, "for the present, the $4.35 per megawatt hour wind integration charge is reasonable" for calculating avoided costs for wind QFs.[17] This conclusion, in light of the foregoing discussion, appears to allow updating integration charges with more current component costs. Given this flexibility, along with ongoing updates to wind integration studies, it is unnecessary for the Commission to specifically approve the 2012 Wind Integration Study in this docket.

b. Solar. Utah Clean Energy opposes the Company's petition regarding solar integration costs to the extent that it requests approval to indefinitely calculate solar integration costs as percentages of wind integration costs. A proper solar integration study is a prerequisite to establishing non-arbitrary solar integration costs; therefore, the Commission should not approve adjustments to its approved solar integration charge values until a well-vetted solar-specific integration study has been concluded. That said, Utah Clean Energy does not oppose insignificant adjustments to the approved solar integration values based on reviewable updates to "cost streams" feeding into the wind integration calculation.

Because of insufficient evidence on the record supporting specific solar integration charge values, the Division, Office, and Utah Clean Energy, among other parties, supported the Commission ordering the Company to conduct a solar integration study. Without formally

[16] 2013 Order at 31.
[17] *Id.*

ordering a solar integration study in its Order, the Commission clearly indicated that its approved solar integration costs were temporary *values*, pending a solar integration study:

> The record before us suggests there is no conclusive evidence showing wind and solar projects impose the same integration costs. We are persuaded by the Division's testimony that solar resources appear to be relatively less variable and more predictable than wind resources. The evidence before us also demonstrates the variability in solar generation output requires PacifiCorp to responsively dispatch other resources thereby demonstrating the reasonableness of implementing a solar integration charge of some amount. *Given the absence of a solar integration study*, we accept the Division's proposal to respectively apply 65 percent and 50 percent of the wind integration cost in PacifiCorp's 2012 WIS to Fixed Solar and Tracking Solar resources. We therefore direct PacifiCorp to apply a solar integration charge of $2.83 per megawatt hour for Fixed Solar resources and a $2.18 per megawatt hour solar integration cost for Tracking Solar resources. *These values* will remain in effect *pending PacifiCorp filing a solar integration study*.[18]

The Commission's Order did not approve the Division's recommendation as a *method* for calculating solar integration costs; rather, the Commission used the Division's recommendation to establish interim solar integration cost values until the Company provides a solar integration study and evidence supporting specific solar integration costs. Thus, if the Commission provides clarification of its Order regarding solar integration costs, it should do so in a manner that avoids stating or implying that calculating solar integration costs as percentages of wind integration costs is a reasonable method for calculating solar integration costs.

3. Conclusion. In summary, Utah Clean Energy requests that if the Commission grants the Company's request for review and clarification of its Order in Phase II of the avoided costs docket, that it does so in a manner consistent with Commission precedent and the record in this proceeding. Specifically,

1. To the extent the Commission decides to provide clarification regarding REC ownership, Utah Clean Energy recommends that the Commission clarify that when avoided cost payments are based on IRP resource costs, RECs are retained by the QF *unless* IRP

[18] 2013 Order at 34 (emphasis added).

resource costs include a specific REC-price credit. In the event that IRP resource costs do include a specific REC price (or price curve) entitling the Company to RECs, the Commission should clarify that a renewable QF is entitled to "buy back" RECs from the Company at the IRP REC price.

2. If the Commission provides clarification on integration costs, Utah Clean Energy requests that it refrain from approving a specific wind integration methodology for use in avoided costs calculations, but allow for methods to be reviewed and updated, consistent with Integrated Resource Planning.
3. If the Commission provides clarification on integration costs, Utah Clean Energy requests that it do so in a manner that avoids stating or implying that calculating solar integration costs as percentages of wind integration costs is a reasonable method for calculating solar integration costs.

DATED this 1st day of October, 2013.

RESPECTFULLY SUBMITED,

UTAH CLEAN ENERGY

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Sophie Hayes
Attorney for Utah Clean Energy

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email this 1st day of October, 2013 on the following:

David L. Taylor
Mark Moench
Yvonne R. Hogle
Paul Clements
ROCKY MOUNTAIN POWER
201 South Main Street, Suite 2300
Salt Lake City, UT 84111
dave.taylor@pacificorp.com
yvonne.hogle@pacificom.com
paul.clements@pacificorp.com
mark.moench@pacificorp.com

Chris Parker
William Powell
Charles Peterson
Dennis Miller
DIVISION OF PUBLIC UTILITIES
500 Heber Wells Building
160 East 300 South, 4th Floor
Salt Lake City, UT 84111
chrisparker@utah.gov
wpowell@utah.gov
dennismiller@utah.gov
chpeterson@utah.gov

Michele Beck
Cheryl Murray
Bela Vastag
UTAH OFFICE OF CONSUMER SERVICES
160 East 300 South, 2nd Floor
Salt Lake City, UT 84111
mbeck@utah.gov
cmurray@utah.gov
bvastag@utah.gov

Patricia Schmid
Justin Jetter
ASSISTANT ATTORNEYS GENERAL
UTAH DIVISION OF PUBLIC UTILITIES
160 East 300 South, 5th Floor
Salt Lake City, UT 84111
pschmid@utah.gov
jjetter@utah.gov

Brent Coleman
ASSISTANT ATTORNEY GENERAL
UTAH OFFICE OF CONSUMER SERVICES
160 East 300 South, 5th Floor
Salt Lake City, UT 84111
brentcoleman@utah.gov

Ros Rocco Vrba
ENERGY OF UTAH LLC
P.O. Box 900083
Sandy, UT 84090-0083
rosvrba@energyofutah.onmicrosoft.com

Christine Mikell
WASATCH WIND
4525 S. Wasatch Blvd, Suite 120
Salt Lake City, UT 84124
christine@wasatchwind.com

Gary Dodge
HATCH, JAMES & DODGE
10 West Broadway, Suite 400
Salt Lake City, UT 84101
gdodge@hjdlaw.com

Robert Millsap
RENEWABLE ENERGY ADVISORS
bobmillsap@renewable-energy-advisors.com

Charles R. Dubuc
WESTERN RESOURCE ADVOCATES
150 S 600 E, Ste 2A
Salt Lake City, UT 84102
rdubuc@westernresources.org

Nancy Kelly
WESTERN RESOURCE ADVOCATES
9463 N Swallow Rd.
Pocatello, ID 83201
nkelly@westernresources.org

Steven S. Michel
WESTERN RESOURCE ADVOCATES
409 E Palace Avenue, Unit 2
Santa Fe NM 87501
smichel@westernresources.org

Michael D. Cutbirth
BLUE MOUNTAIN POWER PARTNERS, LLC
2020 Alameda Padre Serra, Ste 123
Santa Barbara, CA 93103
mcutbirth@champlinwind.com

Sarah Cottrell Propst
INTERWEST ENERGY ALLIANCE
propst@interwest.org

Cynthia Schut
WESTERN RESOURCE ADVOCATES
Cindy.schut@westernresources.org

Maura Yates
SUN EDISON, LLC
201 Lavaca, Ste #302
Austin, TX 78701
myates@sunedison.com

Mike Ostermiller
KYLER, KOHLER, OSTERMILLER & SORENSON
1833 W. Royal Hunte Drive, Suite 200
Cedar City, UT 84720
mike@nwaor.org

Chris Kyler
KYLER, KOHLER, OSTERMILLER & SORENSON
PO Box 599
Salt Lake City, UT 84110
chris@kkoslawyers.com

ELLIS-HALL CONSULTANTS, LLC
P.O. Box 572098
Murray, UT 84107-6764
mail@ehc-usa.com

Jerold G. Oldroyd
Tesia N. Stanley
BALLARD SPAHR LLP
201 South Main Street, Suite 800
Salt Lake City, UT 84111-2221
oldroydj@ballardspahr.com
stanleyt@ballardspahr.com

Daniel R. Simon
BALLARD SPAHR LLP
1909 K Street, NW, Suite 1200
Washington, DC 20006
simond@ballardspahr.com

F. Robert Reeder
William J. Evans
Vicki M. Baldwin
PARSONS BEHLE & LATIMER
201 South Main Street, Suite 1800
Salt Lake City, UT 84111
frreeder@parsonsbehle.com
bevans@parsonsbehle.com
vbaldwin@parsonsbehle.com

Jeffrey Barrett
UTAH OFFICE OF ENERGY DEVELOPMENT
60 East South Temple, 3rd floor
Salt Lake City, UT 84114
jhbarrett@utah.gov

Paul H. Proctor
ASSISTANT ATTORNEY GENERAL
UTAH OFFICE OF ENERGY DEVELOPMENT
160 East 300 South, 5th Floor
Salt Lake City, UT 84111
pproctor@utah.gov

Chris Shears
EVERPOWER WIND HOLDINGS COMPANY
1251 Waterfront Place, 3rd floor
Pittsburgh, PA 153222
cshears@everpower.com

Noah M. Hoagland
SUTTER AXLAND, PLLC
8 East Broadway, Suite 200
Salt Lake City, UT 84111
nhoagland@sautah.com

Peter J. Richardson
Richardson Adams, PLLC
515 N. 27th Street
P.O. Box 7218
Boise, ID 83702
peter@richardsonadams.com

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Sophie Hayes