

R. Jeff Richards (7294)  
Daniel E. Solander (11467)  
201 South Main Street, Suite 2300  
Salt Lake City, Utah 84111  
Telephone No. (801) 220-4014  
Facsimile No. (801) 220-3299  
[jeff.richards@pacificorp.com](mailto:jeff.richards@pacificorp.com)  
[daniel.solander@pacificorp.com](mailto:daniel.solander@pacificorp.com)

Attorneys for Rocky Mountain Power

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

<p><b>In the Matter of:</b></p> <p><b>THE FORMAL COMPLAINT OF ELLIS-HALL CONSULTANTS AGAINST PACIFICORP/ROCKY MOUNTAIN POWER</b></p>	<p>Docket No. 14-035-24</p> <p><b>ROCKY MOUNTAIN POWER'S RESPONSE TO ELLIS-HALL CONSULTANTS, LLC PETITION FOR REVIEW OR REHEARING</b></p>
--	---

Comes now, Rocky Mountain Power (the “Company”) with its response to Ellis-Hall Consultants, LLC’s (“Ellis-Hall”) Petition for Review or Rehearing (the “Petition”). In support of its Response, Rocky Mountain Power states as follows:

**INTRODUCTION**

On May 27, 2014, Ellis-Hall filed its Petition with the Public Service Commission of Utah (the “Commission”), requesting that the Commission reconsider its April 25, 2014, Order Approving Ellis-Hall Consultants, LLC’s Motion for Leave to File Over-length Reply Comments and Dismissing Complaint (the “Final Order”) and find that the August 16, 2013, Order on Phase II Issues (“Phase II Order”), issued in Docket No. 12-035-100, does not apply to Ellis-Hall’s request for indicative pricing, which was made prior to May 22, 2013.

The Petition argues that the Commission failed to apply the plain language of the Phase II Order that “future requests for indicative pricing for wind QFs under Schedule 38 will be calculated using the Proxy/PDDRR method.”

All of Ellis-Hall’s arguments were considered and rejected by the Commission in its April 25, 2014, Final Order. Ellis-Hall presents no new legal arguments or factual evidence in its Petition. Accordingly, it should be dismissed.

### **ARGUMENT**

Before addressing any substantive points that might be raised in Ellis-Hall’s Petition, as a threshold matter, the Petition should be dismissed as untimely filed. The Commission’s Final Order dismissing the formal complaint was issued April 25, 2014. Ellis-Hall’s Petition was filed May 27, 2014, 31 days later. Commission Rule R746-100-11.F requires that petitions for review or rehearing be filed within 30 days of the order. Ellis-Hall’s was not, and should therefore be dismissed.

None of the arguments contained in Ellis-Hall’s Petition are new. The Commission explicitly considered and rejected Ellis-Hall’s arguments regarding the plain meaning of Schedule 38 in the Final Order. As the Commission explained:

We stand by the plain reading of the language contained in the Phase II Order. That language requires PacifiCorp to utilize the Proxy/PDDRR method to calculate future requests for indicative pricing for wind QFs under Schedule 38. Contrary to EHC’s claims, the Phase II Order does not vest QFs with indicative pricing calculated using an outdated method and received under Schedule 38 prior to the Phase II Order. Rather, consistent with Schedule 38, our previous orders, and federal and state law applicable to QF power purchases, indicative prices are required to be updated to reflect new avoided costs calculations until a power purchase agreement is executed by both parties.<sup>1</sup> (internal citations omitted).

---

<sup>1</sup> Final Order at 21-22.

Ellis-Hall's belated attempt to broaden the scope of the complaint at this time is also highly improper. Pursuant to agreement of the parties at the scheduling conference in this matter, held on March 13, 2014, the scope of this complaint was limited to "the legal question of whether the language from the Phase II Order requires PacifiCorp to execute a PPA with EHC based on the indicative pricing received on May 22, 2013."<sup>2</sup> Contrary to Ellis-Hall's arguments, the Commission did not expand the scope of Ellis-Hall's complaint, it ruled on precisely the issue that was agreed to at the scheduling conference. Ellis-Hall's arguments in the Petition that it should have the opportunity to present evidence regarding alleged discriminatory conduct is completely contrary to the agreement of the parties, and is outside of the agreed-upon scope of this proceeding. The record in this proceeding was limited based upon the agreement of the parties, and the attempt to broaden the scope at this time should not be allowed by the Commission.

### **CONCLUSION**

The Commission should deny Ellis-Hall's Petition for Review or Rehearing. As noted above, the arguments regarding the application of the plain language of the Order on Phase II Issues were previously rejected by the Commission in the April 25, 2014, Final Order. The Commission's findings regarding the meaning of its prior orders have not been altered by the Petition. Ellis-Hall's Petition should be denied.

DATED this 10<sup>th</sup> day of June, 2014.

Respectfully submitted,

---

R. Jeff Richards  
Daniel E. Solander

---

<sup>2</sup> Final Order at 10.

Attorneys for Rocky Mountain Power