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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of: The Utah Public Service Commission Exercising Jurisdiction Over Schedule 38 and, as Adopted, PacifiCorp's OATT Part IV.

Docket No. 15-2582-01

Ellis-Hall Consultants, LLC's Objection to Rocky Mountain Power's Motion to Dismiss, and Response to the Division of Public Utilities', and the Office of Consumer Services' Comments

Ellis-Hall Consultants, LLC ("Ellis-Hall") files this objection to Rocky Mountain Power's motion to dismiss, and reply to the Division of Public Utilities' and the Office of Consumer Services' responses to Sage Grouse's request for agency action. Ellis-Hall hereby joins in the legal reasons and factual allegations contained in Sage Grouse's replies except as set forth below.

I. ELLIS-HALL'S VARIANCE WITH SAGE GROUSE.

Ellis-Hall generally agrees with Sage Grouse's analyses. Several points exist where Ellis-Hall diverges from Sage Grouse.

First, this docket is very important in rectifying and preventing wrongs. The importance of these issues is undermined by excessive pathos. Very substantial issues are

involved, including fraud. Ellis-Hall, therefore, suggests that Sage Grouse moderate its tone so that its legal arguments are not lost to excessive vibrato.

Second, Ellis-Hall does not fully agree with Sage Grouse's position regarding the Latigo Wind Park, LLC ("Latigo") and the Blue Mountain Power Partners, LLC ("BMPP") PPA dockets. In the prior Latigo and BMPP PPA dockets the Commission denied jurisdiction over any interconnection questions. The Commission set aside interconnection questions to be raised at another time in a different forum in order to focus on the PPAs. Inasmuch as Sage Grouse disagrees with this position, Ellis-Hall does not adopt that reasoning.

Third, Ellis-Hall disagrees that Latigo's interconnection allocation should be allocated to Sage Grouse. On April 13, 2012, Ellis-Hall requested PacifiCorp to allocate the available transformer capacity in Pinto Substation. PacifiCorp responded with an amount that was reduced by Latigo's reservation. Based on PacifiCorp's response and direction, Ellis-Hall was forced to reduce the size of its project. If, at any time, for any reason, additional capacity becomes available, this capacity should be allocated to Ellis-Hall due to its priority in the large generation interconnection queue. Ellis-Hall is positioned higher than Sage Grouse on Interconnection Queue.

II. ELLIS-HALL'S INDEPENDENT RESPONSES.

In addition to Sage Grouse's arguments, Ellis-Hall also makes the following contentions.

1. Ellis-Hall Is Not Privy to Sage Grouse.

Ellis-Hall vigorously disputes privity between Ellis-Hall and Sage Grouse and is willing to testify to this extent once the proceedings move past the pleadings.

Ms. Kimberly Ceruti holds a minority interest in Ellis-Hall. Mr. Tony Hall and the other owners of Ellis-Hall have no ownership interest in Sage Grouse. These other owners similarly

have no management interest in Sage Grouse. In fact, Sage Grouse's manager, Ms. Michelle McDaniels is completely unknown to Ellis-Hall and Ellis-Hall's majority owners. Mr. Hall, for instance, has never met, seen, or spoken to Ms. McDaniels. Ms. McDaniels has never been hired by Ellis-Hall to do any work for Ellis-Hall, whatsoever.

In addition, Ms. Ceruti's ability to act on behalf of Ellis-Hall is limited. She does not have the authority to make binding decision for Ellis-Hall without approval of the owners. In fact, Ms. Ceruti has had virtually no contact, on behalf of Ellis-Hall, with PacifiCorp for the better part of two years. Mr. Hall represented Ellis-Hall in negotiating and executing Ellis-Hall's LGIA with PacifiCorp's Mr. Fishback. And, Mr. Hall alone represents Ellis-Hall in its interactions with PacifiCorp's Paul Clements. Ms. Ceruti is not involved in these discussions.

In response to the argument that Ellis-Hall and Sage Grouse have an economic relationship, in the late summer 2012 (July-August) PacifiCorp informed Ellis-Hall that its connector substation must accommodate all generating facilities within five miles of the substation pursuant to PacifiCorp's good utility practices. PacifiCorp implemented this requirement shortly after the BMPP Interconnection Request of June 26, 2012. This required Ellis-Hall to acquire a larger area of land for the substation footprint and to bear the redesign costs of the substation in order to accommodate BMPP. Sage Grouse submitted its Interconnection Request on August 25, 2014 and is within five miles of Ellis-Hall's connector substation. Since PacifiCorp has saddled Ellis-Hall with bearing the additional cost of hosting additional projects in the area if any developer seeks to use Ellis-Hall's substation, they may negotiate doing so by compensating Ellis-Hall at market rates. Sage Grouse is no exception.

The Commission should also be aware that Ellis-Hall's contracting with Sage Grouse for the use of its connector substation is an attempt to mitigate damages caused by PacifiCorp.

After Ellis-Hall paid for design modifications, PacifiCorp then changed its demand and permitted BMPP to build its own substation on the false basis that Ellis-Hall denied BMPP access to its substation—a denial that never happened and PacifiCorp knew to be untrue because Ellis-Hall was required to provide the new drawings (with accommodation) to PacifiCorp. Thus, any agreement permitting Sage Grouse to access Ellis-Hall’s substation is an attempt on Ellis-Hall’s behalf to mitigate damages and incurred costs caused by PacifiCorp.

2. Standing is Irrelevant.

No party questions Ellis-Hall’s standing in this matter. The Commission granted Ellis-Hall motion to intervene under Utah Code. Ann. § 63G-4-207(1). Ellis-Hall has a pecuniary interest in Latigo’s capacity. Thus, Ellis-Hall has standing and does not believe a tenable argument challenging Ellis-Hall’s standing in this matter, exists.

Because Ellis-Hall indisputably has standing, Sage Grouse’s standing is, therefore, a nonissue. “The Supreme Court [of the United States] has repeatedly held that if one party has standing in an action, a court need not reach the issue of the standing of other parties when it makes no difference to the merits of the case.” *Ry. Labor Execs. Ass’n v. United States*, 987 F.2d 806, 810 (D.C. Cir. 1993); accord *Teva Pharmaceuticals USA, Inc. v. Sebelius*, 595 F.3d 1303, 1318 (D.C. Cir. 2010); *see also*, R746-100-1 (referring to Utah R. Civ. P. where no administrative rule otherwise exists); *see also*, *Glacier Land Co., L.L.C. v. Claudia Klawe & Associates, L.L.C.*, 2006 UT App 516, ¶ 30, 154 P.3d 852 (“[I]nterpretations of the Federal Rules of Civil Procedure are persuasive where the Utah Rules of Civil Procedure are ‘substantially similar’ to the federal rules . . .”).

Sage Grouse’s standing is irrelevant and deserves no additional response. The Commission should permit the parties to move towards discovery and a resolution on the merits.

DATED this 13th day of August 2015.

Respectfully submitted,

/s/ Tony Hall

Tony Hall

Ellis-Hall Consultants, LLC – Member

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of August, 2015, an original and ten (10) true and correct copy of the foregoing **Ellis-Hall Consultants, LLC's Objection to Rocky Mountain Power's Motion to Dismiss, and Response to the Division of Public Utilities', and the Office of Consumer Services' Comments** were hand-delivered to:

Public Service Commission of Utah
Heber M. Wells Building, Fourth Floor
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and true and correct copies were electronically mailed to the addresses below:

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/s/ Tony Hall

Tony Hall

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