

TO: The Public Service Commission of Utah
Commissioner Ted Boyer
Commissioner Ron Allen
Commissioner Richard Campbell
Jennifer Watts

FROM: Mayor Joe Thomas, *Spanish Fork City*; Mayor Tom Pollard, *Town of Alta*; Mayor Dana Williams, *Park City Municipal Corporation*; Bruce Adams, *San Juan County Commission*; Chris Robinson, *Summit County Council & The Ensign Group, L.C.*; Rob Adams, *Beaver County Economic Development*; Jeff C. White, *Logan City Light & Power*; Alan Westenskow, *Zions Bank Public Finance*; Alan Sparrow, *Rowland Hall*; Jessica Norie, *Artspace*; Annie Carmichael, *The Vote Solar Initiative*; Levi Belnap, *Utah Solar Energy Association*; Craig Cox, *Interwest Energy Alliance*; Dee Rowland, *Utah Catholic Diocese Peace & Justice Commission*; Steve Ritchey, *Utah United Religions Initiative & Synergistic Systems*; Rev. Diana Johnson, *Utah Interfaith Power & Light*; Andrew J. Johnson, *Sharp Electronics Corporation/Solar Energy Solutions Group*; Mike Adams, *Redco Power*; Paul Hodge, *Solar Nation*; Scott F. Young, *Sentry Financial Corporation*; Jim Welch, *Bella Energy*; Rick Gilliam, *SunEdison*; Peter Metcalf, *Black Diamond Equipment, Ltd.*; Brent Giles, *Park City Mountain Resort & Powdr Corporation*; Robert G. O'Connor, *Wilson, Sonsini, Goodrich, & Rosati*; Bob Hopper, *ClearPeak Advisors, Inc.*; Jigar Shah, *Jigar Shah Consulting*; Erika Brown, *3form*

RE: Public comments, Docket No. 09-999-12, Notice of Investigation and Procedural Order in the Matter of an Investigation Regarding Third-Party Arrangements for Renewable Energy Generation

DATE: November 16, 2009

Dear Commissioners:

Please accept these comments in response to the Notice of Investigation and Procedural Order issued October 12th, 2009 in Docket No. 09-999-12. We are a group of local and national businesses, local governments, and non-profit organizations with an interest in seeing this important matter addressed and resolved by the Public Service Commission of Utah. Thank you for the opportunity to provide input and be engaged on this and other critical energy decisions.

While we represent diverse backgrounds and sectors, we share a commonality in our support for renewable energy and clean distributed energy. We recognize that Utah has made strides to increase the

adoption of renewable energy, and we commend the efforts of the utilities, regulators, policymakers, businesses, and organizations that continue to expand the opportunities for renewable energy for all Utahns. Nevertheless, critical barriers to renewable energy adoption still remain; among them is the uncertainty regarding third-party financing and power purchase agreements (PPAs) for renewable energy generation in Utah's regulatory arena.

It is our understanding that the purpose of this investigative docket is to clarify how current Utah Statute pertaining to public utilities should be interpreted and whether or not a third-party PPA provider should be considered a public utility and regulated by the Public Service Commission of Utah. While we have not undertaken a legal analysis of this matter, based on other states' decisions and trends in the national marketplace, we strongly encourage the Commission to rule that third-party arrangements for renewable energy should be exempt from regulation and considered a legitimate arrangement for renewable energy development in the state of Utah.

Third-party PPAs are becoming increasingly common and popular financing mechanisms, representing the best of market innovation and facilitating more distributed renewable energy projects. These arrangements help mitigate risk and make solar more economically viable for all involved: the site host, the investor, the developer, the utility, and, ultimately, all businesses and citizens. The site host benefits from having a renewable energy system on-site that is repaid over time, with a guaranteed predictable cost of electricity over the term of the contract. The investor and host benefit mutually from being able to partner to take advantage of available tax credits, thereby extending these important incentives to non tax-paying entities, such as non-profits, schools, municipal governments, and churches. For those businesses that *are* able to take advantage of the tax credits, third-party PPA arrangements represent a simplified, low-risk mechanism to install renewable energy systems on-site, while also saving their business' resources. The investor, developer and host all benefit from a model that enables larger projects with lower costs due to economies of scale. The utility benefits from private investment in distributed renewable energy generation, which may help them defer or eliminate the need for additional investments of capacity resources, peaking resources, and distribution and transmission upgrades. And, Utah's businesses and citizens benefit from private market investments in renewable energy that help drive costs down, expand solar and other renewable opportunities, and diversify the electricity grid with more distributed renewable energy generation, which can help mitigate price volatility and risks from future carbon regulation. We would like to see Utah join the ranks of states that have addressed this important issue and now allow the third-party PPA model, including: California, Hawaii, Colorado, Oregon, Nevada, Michigan New Jersey, Maryland, Connecticut and Massachusetts. As well, both New Mexico and Arizona are in the process of addressing the issue. Those states that allow for third-party PPAs make an important clarification that third-party owners are not utilities and should be allowed to enter into financial agreements with site hosts without risk of regulation. Without this clarification, it is our understanding that certain businesses will not do business in Utah and Utahns will not have the opportunity to benefit from these arrangements.

As noted at the Governor's 3rd Annual 2009 Utah Economic Summit, "Utah boasts one of the strongest economies in the nation, thanks to a dynamic workforce and a favorable business environment. As the Beehive State becomes more prominent in the national and global arenas, the state's business leaders will encounter new opportunities and challenges in managing unprecedented economic growth." We recognize that this economic growth is inextricably linked to growing energy demand, and we all face the challenge of meeting these demands in a sustainable fashion that does not compromise our quality of life, public health, or economic viability. This challenge is also an opportunity that can bring about transformations and adaptations to the way in which we do business, consume, and produce energy. We see renewable energy generation (both distributed and centralized) as being a critical component of both Utah's and the nation's energy future and one solution to our current challenge. To the extent the Public Service Commission of Utah is able to remove barriers to renewable energy development and allow for innovative financing mechanisms, such as third-party PPAs, we strongly encourage you to do so.

We thank the Commissioners and the Commission staff for their continued hard work and attention on numerous important energy-related matters, and we are grateful to have the opportunity to weigh in on these issues. Thanks for your consideration of our comments.

Sincerely,

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