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Representing Wasatch Wind

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of PACIFICORP for Approval of an IRP Based Avoided Cost Methodology For QF Projects Larger than 1 Megawatt	<u>DOCKET NO. 03-035-14</u>
	WASATCH WIND'S RESPONSE TO PETITIONS FOR REHEARING AND CLARIFICATION

Pursuant to Utah Code Ann. §§ 54-7-15 and 63-46b-12 and Utah Administrative Code § R746-100-11, the Committee of Consumer Services, the UAE Intervention Group (UAE), PacifiCorp as well as Wasatch Wind all submitted petitions either for review, reconsideration, clarification or rehearing of the Commission's Report and Order ("Order") issued in this docket on October 31, 2005. Wasatch Wind wishes to respond to the parties' petitions and comments.

Response to Committee of Consumer Service Comments

The Committee submits to the Commission its opinion that the October 31, 2005 Report and Order is not a final order because it fails to resolve all issues surrounding the method to determine avoided costs/indicative pricing. The Committee contends that the Report and Order leaves open the question of how the Commission's adopted avoided cost method considers avoided transmission capital costs, transmission line losses or savings that result from the utility's interconnection with a particular QF. The Commission left these elements to a working group's report. The group did not reach consensus on these issues. The Committee cites case law to bolster its argument.

Wasatch Wind does not have a legal opinion on whether the Commission's October 31st Report and Order meets the required criteria for finality; that is a legal question for the Commission to ponder. If the Commission should decide that further evidence is required to resolve the pending issues, then in the interim, the Commission should order the Company to provide indicative pricing to requesting QFs absent the transmission and interconnection adjustments. Adjustments to indicative pricing can be made once the transmission and interconnection issues are resolved. It is important the QFs be able to receive indicative pricing even if it does not include such adjustments. Time is of the essence for some QF projects as reported to the Commission during the hearings.

The Committee also requests that the Commission modify its order and institute an interim pricing mechanism. The Committee's recommends the adoption of its position held during the hearings. It advocates as an interim method the adoption of the lower of the market

proxy or the IRP wind resource cost method, (i.e., the Company-build option), for determining indicative pricing for QF wind projects under the 1400 MW target. The Committee presents its opinion that the adoption of the market proxy does not comply with PURPA and FERC rules and therefore, is not in compliance with federal law. However, the Committee is unclear on how the adoption of a market based proxy violates federal law; it simply asserts that it does. The Commission found that all parties agreed during the hearing that a proxy approach was appropriate for wind QFs because it met the conditions laid out by the Division of Public Utilities:

1) the operating characteristics of the proxy plant closely match those of the QF being evaluated; 2) the QF exactly replaces the entire capacity and energy of the proxy plant; and 3) the QF does not significantly affect other plant additions or system operations. *Order, Page 19.*

In addition, the Commission cites a key finding in its order on page 21. “Since the payment to a wind QF is the same as a wind resource procured through competitive bidding, the ratepayer indifference standard is addressed yet simplicity in identifying the cost of a wind resource is achieved.” A QF wind project should get paid the same as a non-QF project because the QF project will allow the Company and its ratepayers to avoid the non-QF project.

The Committee maintains that a market based proxy such as the last executed contract for a non-QF wind resource can only be adopted if the contract comes from a properly designed, renewable resource RFP. It further asserts that only an RFP that includes a Company build option can be designated a properly designed, renewable resource RFP. The Committee misconstrues the Commission’s order to reach this conclusion. The Commission mentions the Company’s plans to include a Company build option in its future RFPs, but the Commission

never makes a finding that such an inclusion is required. Nor is Wasatch Wind aware of any federal law that requires a Company build option in an RFP. The Committee simply makes the unsupported assertion that a properly designed, renewable resource RFP requires a Company build option and then uses this assertion to argue that the Commission's method violates federal law. If the Commission agrees with the Committee's contention that a properly designed renewable resource RFP requires a Company build option then Wasatch Wind recommends that the Commission choose the average of the last executed contract and the IRP wind resource cost method for determining avoided costs and the pursuant inductive pricing.

The Committee does bring up a concern held by Wasatch Wind. The use of the last executed non-QF wind contract from an RFP for determining avoided costs presents a problem when the contract is confidential. This presents a problem when the requisite adjustments must be made to the contract price to adjust indicative pricing for the characteristics of the QF wind project. If the market proxy contract is a single price for kWh output, then adjustments should be made to reflect the differences between the output of the QF and the output of the non-QF contract in terms of on-peak and off-peak production. In addition, any differences in line losses and avoided transmission capital costs must also be taken into account. This creates difficulties when the contract is confidential. The Commission should require that the contract terms of the market proxy be made available to all QF projects that sign a confidentiality agreement.

Wasatch Wind believes these adjustment issues can be solved by the Commission by either accepting the only method explained on the record for making the on-peak off-peak adjustment (See Swenson's Surrebuttal) or through rehearing. Line losses should be determined

by the method advocated by Wasatch Wind in its recommendation made in the Transmission Working Group's report or through rehearing.

Response to PacifiCorp Comments

PacifiCorp requests rehearing of the Commission's decision to allow the QF to repurchase Renewable Energy Credits (RECs or Green Tags) from the Company. The opportunity for a QF to repurchase the RECs associated with its project if the market proxy contract includes the RECs as part of the contract price is an important one. All parties in this case with the exception of PacifiCorp were unanimous in their written testimony as to their position that QF developers should have rights to the RECs. Allowing QF developers the rights to RECs serves the public interest because REC ownership encourages renewable resource development. A problem arose when the market proxy included the RECs in the contract. It stood to reason that if the contracted price of the market based proxy included the RECs then the RECs would go to the Company. Wasatch Wind proposed and the Commission accepted the option for QF developer to purchase the RECs from the Company at the IRP determined price. This is the price that the Company used to value RECs when contracting with the non-QF wind developers. To allow the option for the QF developer to purchase back the RECs at the established value awarded by the Company will leave the ratepayer indifferent.

The Company argues that the value of a wind resource and the avoided cost pricing correlated to wind is inextricably tied to the value of the REC. Therefore the Company maintains that ownership of the REC must remain with PacifiCorp if the Company's customers are to receive full value for the cost of this resource. This assertion that the value of the wind resources

can not be separated from the REC flies in the face of its own policy of purchasing RECs to satisfy the purchases of renewable wind power made by its Blue Sky customers. If the attributes are so entwined then Blue Sky customers are being cheated through the Company's purchase of RECs to compensate for the participants' purchase of renewable wind power. The Company should buy wind power along with the RECs to satisfy their customers. Wasatch Wind believes that Utah ratepayers receive benefits of wind power that were identified in the IRP; these include risk mitigation against future gas and fuel price increases and the provision of rate stability. The Commission should maintain the option for QF wind developers to buy back the RECs at the IRP determined value. The Company expresses concern that if a Renewable Portfolio Standard is instituted in this state that it should be allowed to recover its costs of purchasing RECs to meet this requirement. Wasatch Wind believes that the Company should be able to purchase RECs from willing sellers on the open market at the then current market price to meet its RPS requirements. Wasatch Wind is full supportive of the Company's future cost recovery for such expenditures if and when they are required by law or by Commission policy.

Response to UAE's comments

Wasatch Wind does not have any direct comments to UAE's response other than to concur that access to the GRID model is critical and that we agree with the five points detailing access to the GRID model and associated training.

DATED this 11^h day of December 2005

WASATCH WIND

Richard S. Collins
Presenting Wasatch Wind

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by U.S. mail, postage prepaid, this 30th of November, 2005, to the following:

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