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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 One Megawatt	**Mountain West Consulting, LLC Response to Request for Reconsideration and Petition for Rehearing or Reconsideration** **DOCKET NO. 03-035-14**

Pursuant to Utah Code Ann. §§ 54-7-15 and 63-46b-12 and Utah Administrative Code § R746-100-11, the Utah Committee of Consumer Services ("Committee"), the UAE Intervention Group ("UAE"), PacifiCorp and Wasatch Wind ("Wasatch") all submitted petitions for review, rehearing and clarification or for reconsideration of the Commission's Report and Order ("Order") issued in this docket on October 31, 2005. Mountain West Consulting, LLC ("MWC"), hereby responds to the request and petition submitted by the Committee and PacifiCorp respectively.

Response to the Utah Committee of Consumer Services

The Committee attacks the market price proxy, claiming that paragraph 6 of the Order needs to explicitly require that the most recent contract be the product of "a properly designed renewable

resources RFP that contains a Company built benchmark, and that incorporates PURPA and FERC standards for determining avoided costs."

First, an RFP need not have a Company built benchmark to comply with PURPA; that is a separate element the Committee may desire but its presence or absence is not the basis for reconsideration of the Order. A reasonably healthy competitive response is certainly sufficient to demonstrate incremental costs of alternative electric energy. PacifiCorp stated its intent to have an NBA benchmark in the future and the Commission referred to that intent in its findings. The utility always has all the flexibility it needs to withdraw from an RFP with an inadequate response. Healthy bidder response, real competition and the functional impossibility of collusion among numerous bidders are the real protections for ratepayers. This claim is just an attempt by the Committee to obtain a second bite at the apple and impose additional obstacles to QF development that the Commission considered but did not require in its Order.

Second, the Committee adds its own requirement that any RFP for non-QF resources also has to comply with FERC and PURPA standards. This Committee position is not supported by regulations or case law and adds no benefit to the RFP process or results. As Pioneer Wind's testimony made clear, one benefit of the market price proxy is that vigorous price competition among numerous bidders will produce the best measure of the incremental cost of alternative electric energy. The Pioneer Wind prefiled testimony and the record at the hearing includes ample evidence to support the Commission's Order.

Next, the Committee claims that Pioneer's market price proxy doesn't comply with PURPA and FERC rules, supposedly because it doesn't require testing the most recent RFP contract price against the FERC rules. This claim mischaracterizes both the evidence in this docket and the

method under the FERC regulations for determination of the "incremental cost of alternative electric energy" in a comparison of a proposed QF wind resource to a prevailing RFP resource. Some of the elements of 18 CFR § 292.304 (e) were considered because they were discussed and considered for wind resources generally in the course of the hearing. For example, regarding (e)(2)(ii), evidence was presented that wind resources are not dispatchable. That applies to both a prevailing RFP resource and to the individual wind QF. Other elements have been considered and included in the mechanism for project specific comparison of the QF with the RPF resource that was extensively discussed by the parties; for example, the availability of capacity during daily and seasonal peaks is included in the comparison of on-peak and off-peak production between the two resources. Similarly, costs or savings resulting from variations in line losses would be included in the project specific adjustments discussed by parties in the hearing and delegated for review by the task force under the Order. Evidence indicated that the RFP process is connected to the underlying IRP process and its action plan, of which the Commission took administrative notice. Some elements of 18 CFR § 292.304 are analyzed further in the IRP review of wind resources. Finally, some elements, such as consideration of terms of a QF contract, can't really be fully compared until there is a completed contract, so although certain terms were considered generically and were addressed in the Order, the comparison will be completed during the hearing for approval of the individual QF contract.

To be fair, the elements under 18 CFR 292.304 were considered in this docket to the extent practicable and the FERC regulations were incorporated into the Order. What does the Committee really claim was not considered? It doesn't say, except to state that the underlying

prevailing RPF contract price in turn also has to be tested against the FERC regulations. That assertion is simply incorrect, and the Committee has cited no authority for its theory. This may be the Committee's desired reading but it has not demonstrated that FERC or state commissions share its view. The price paid to the prevailing RPF resource is the incremental system wind cost and that contract cost and resource characteristics are what the QF is to be compared against. The Committee's new position is just an effort to impose express QF analysis on all wind RFP contracts regardless of size, without a legal basis. Further, the position is stated for the first time after the hearing is over and is inconsistent with the Committee's own position of record; why did the Committee propose during the hearing as a proper measure the lesser of the IRP price or the same most recent prevailing RFP contract price? Under the Committee's post-hearing theory, that measure would suffer from the same defect the Committee now claims any time the prevailing RFP contract price were lower than IRP price (whatever the IRP price may be, since the IRP wind resource cost information does not resolve questions about capacity factor, transmission cost, avoided line losses or other site specific factors).
The Committee also claims that the confidential RFP contract was not made available to parties; in fact it was made available pursuant to data request.

The Order on its face is final regarding the elements of avoided costs except for site specific adjustments, for which a method of resolution was ordered. Certain site specific elements were directed by the Commission to be referred to the working group to be convened by PacifiCorp, which group was to recommend a method of determination within 21 days. In fact this method of disposition was originally jointly proposed by PacifiCorp, the Committee and the Division of

Public Utilities and was opposed by several other parties, in part because of its potential for impracticality and delay. Now the Committee claims the Order is not final even though the Commission substantially adopted its recommendation because the Commission has reserved an element of avoided costs for further determination, as the Committee asked it to, and asks the Commission to withdraw the effectiveness of its Order pending its decision on the recommendations of the working group. In the meantime some wind parties are being prejudiced by the passage of time, as was described by parties during the hearing and during task force discussions. The Order meets the criteria for a final order under applicable case law and MWC urges both prompt resolution of this claim and a prompt disposition of task force recommendations, so that wind parties will be in a position to proceed.

Response to PacifiCorp

PacifiCorp failed to present a response and evidence on the REC buyback issue during the hearing. Where other parties are concerned, PacifiCorp asserts that reconsideration is not warranted where a party seeks to present evidence that could have been presented at the original hearing but was not. But of course that standard should not apply equally to PacifiCorp. As to PacifiCorp's new argument, it is illusory. Even if wind avoided cost pricing were "inextricably" tied to the value of the REC, as PacifiCorp claims, if the REC is backed out but fully compensated at a value that PacifiCorp itself gets to determine in the IRP, there has been no change of aggregate value to PacifiCorp. But there is no such "inextricable" tie to REC value; this is just a restatement of 'we don't believe it is appropriate to separate the two.' The Commission heard that argument and has ruled otherwise. Wind power facilities have attributes that exist regardless of whether RECs exist at all, including many beneficial environmental,

economic and social attributes and ongoing hedge value against of fuel price escalation and volatility risk. Those attributes do not go away if the RECs are purchased back by the wind QF, but last throughout the life of the facility. The Commission may allow the wind QF REC buy back option under state policy to promote small power production (including wind) facilities reflected at Utah Code Annotated § 54-12-1, as this may encourage wind QFs by allowing resale to a better alternative market, while the system will in fact continue to receive the benefit of the attributes of the wind facility and the utility receives its full stipulated value. The Commission's order on this issue is beneficial and legally proper.

DATED this 15th day of December, 2005.

/s/_______________
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent by United States mail, postage prepaid, or by email this 15th day of December, 2005, to the following:

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