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Attorneys for PacifiCorp

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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In the Matter of the Application of	)	
PACIFICORP for a Certificate of	)	PACIFICORP'S OPPOSITION TO
Convenience and Necessity Authorizing	)	DESERT GENERATION &
Construction of the Currant Creek	)	TRANSMISSION COOPERATIVE'S
Power Project	)	PETITION TO INTERVENE
	)	
	)	DOCKET NO. 03-035-29

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PacifiCorp hereby responds to Deseret Generation & Transmission Cooperative's ("DG&T") Petition to Intervene ("Petition") filed in this matter. PacifiCorp opposes DG&T's intervention in this proceeding for the following reasons.

1. Utah law provides that a petition for intervention shall be granted if it is determined that: (a) the petitioner's legal interests may be substantially affected by the proceeding; and (b) the interests of justice and the orderly and prompt conduct of the adjudicative proceedings will not be materially impaired by allowing the intervention. Utah Code Ann. § 63-46b-9(2). To fulfill the requirements of subsection (a) above, a petition to intervene must include "a statement of facts demonstrating that the petitioner's legal rights or interests are substantially affected by the formal adjudicative proceeding, or that the petitioner qualifies as an intervenor under any provision of law" and "a statement of the relief the petitioner seeks." Utah Code Ann. §63-46b-9(1)(c) & (d). DG&T's Petition does not include these

required statements. Furthermore, DG&T has not demonstrated and cannot demonstrate that its legal rights or interests will be affected by this proceeding or that the orderly and prompt conduct of this proceeding will not be impaired by its intervention.

2. DG&T's claim of substantial interest is based on its contentions that it "operates wholesale generation and transmission facilities with the State of Utah and is a Utah public utility" and that it "submitted bids in response to RFP-2003A." DG&T's general contention about operating wholesale generation and transmission facilities as a public utility, and its vague contention that it submitted bids in response to PacifiCorp's RFP-2003A do not constitute a statements of facts demonstrating that its legal rights or interests are substantially affected by this proceeding. Understandably, DG&T makes no attempt to explain how its operation of wholesale generation and transmission facilities as a public utility might establish some legal right or interest that would be substantially affected by this proceeding. Further, DG&T did not submit a bid in the 2005 "peaker" category, which is the bid category for which the Currant Creek Project was selected, and is the only bid category relevant to this case.<sup>1</sup> Absent a statement of facts demonstrating that its legal rights may be substantially affected by this proceeding, DG&T has not satisfied its burden under the statute.

3. Since DG&T failed to provide a statement of the relief it seeks in this proceeding, PacifiCorp does not know the result DG&T will seek. In light of the fact that DG&T did not submit a bid in the 2005 "peaker" category, i.e., did not submit a bid for comparison to the Currant Creek Project, and there is no other basis on which DG&T's legal interests could be substantially affected by this case, it appears DG&T's purposes in this case could only be to

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<sup>1</sup>The undersigned confirmed with the independent evaluator for the 2003-A RFP, Navigant Consulting, that DG&T did not submit a bid for the 2005 bid category. In contrast to DG&T's Petition, Spring Canyon Energy, in its petition to intervene, specifically referred to its participation in that category of bids that were compared to the Currant Creek Project.

broaden the scope of the proceeding or obtain confidential information that it could not otherwise obtain. Intervention for either of those purposes would certainly materially impair the interests of justice and the prompt and orderly conduct of this proceeding, and should not be allowed.

WHEREFORE, PacifiCorp respectfully requests that the Commission deny DG&T's Petition.

Respectfully submitted this \_\_\_\_\_ day of November, 2003.

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## CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of November, 2003, I caused to be served, via facsimile, overnight delivery or hand-delivery, and United States mail, a true and correct copy of the foregoing Opposition to DG&T's Petition to Intervene to the following:

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