

Dean S. Brockbank
Rocky Mountain Power
201 South Main Street, Suite 2200
Salt Lake City, Utah 84111
(801) 220-4568
dean.brockbank@pacificorp.com

Edward A. Hunter
David L. Elmont
Stoel Rives LLP
201 South Main Street, Suite 1100
Salt Lake City, Utah 84111
(801) 328-3131
(801) 578-6999 (fax)
eahunter@stoel.com
dlelmont@stoel.com

Attorneys for Rocky Mountain Power

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Petition of Desert Power,
L.P. for Approval of a Contract for the Sale of
Capacity and Energy from its Proposed QF
Facilities

Docket No. 04-035-04

**NOTICE OF WITHDRAWAL OF
MOTION TO COMPEL DISCOVERY**

Rocky Mountain Power (or the “Company”) hereby gives notice to the Commission of the withdrawal of its Motion to Compel Discovery (“Motion”) filed in this matter on September 7, 2006.

The Company filed the Motion out of concern that it had not identified any documents produced by Desert Power L.P. (“Desert Power”) responsive to a request for “all documentation, information and correspondence from lenders, equity investors or others where any cause for ‘freezing’ or withholding financing or additional funds is addressed.” *See* PacifiCorp’s Third Set of Data Requests at Request 3.2.

Desert Power has now identified one document, attached hereto as Confidential Exhibit 1, which it had previously produced and which it asserts is responsive to Request 3.2. The Company is unable to identify anything in the attached document supporting Desert Power's claim that the "freezing" [of Desert Power's financing] occurred because of PacifiCorp's refusal to recognize the validity of the force majeure claim as it pertained to PacifiCorp's interconnection situation," as Desert Power stated in its response to Request 3.2. While the document does address a new anticipated Commercial Operation Date as part of the process for moving forward, it also addresses environmental issues, permitting, and gas supply, among other open issues. The Company maintains, therefore, that Desert Power has still not identified any documentation substantiating its claim that the rejection of the force majeure claim caused the loss of financing. Nevertheless, the Company accepts that the attached document may be at least somewhat responsive to Request 3.2 insofar as it may relate to "additional funds."

If the cause of Desert Power's loss of financing proves to be an important issue going forward, Rocky Mountain Power maintains that Desert Power has yet to substantiate its claims through documentation notwithstanding the Company's request for all documents regarding this issue. However, given the late date in this proceeding and that fact that Desert Power did identify one document potentially responsive to the data request that was the subject of the Company's Motion, Rocky Mountain Power will not ask the Commission to issue a ruling and hereby withdraws the Motion.

RESPECTFULLY SUBMITTED: September 19, 2006.

Edward A. Hunter
David L. Elmont
Stoel Rives LLP

Dean S. Brockbank
Rocky Mountain Power

Attorneys for Rocky Mountain Power

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing **NOTICE OF WITHDRAWAL OF MOTION TO COMPEL DISCOVERY** was sent by electronic mail to the following on September 19, 2006:

Stephen F. Mecham
Callister Nebeker & McCullough
10 East South Temple, Suite 900
Salt Lake City, UT 84133
sfmecham@cnmlaw.com

Reed Warnick
Assistant Attorney General
Paul Proctor
Assistant Attorney General
500 Heber Wells Building
160 East 300 South
Salt Lake City, Utah 84114
rwarnick@utah.gov
pproctor@utah.gov

Michael Ginsberg
Assistant Attorney General
Patricia Schmid
Assistant Attorney General
500 Heber Wells Building
160 East 300 South
Salt Lake City, Utah 84114
mginsberg@utah.gov
pschmid@utah.gov
