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Date: 9/19/2006 4:24:34 PM
Subject: Docket No. 04-035-04

To the Commission and Parties in Docket No. 04-035-04

Desert Power supports PacifiCorp's withdrawal of its Motion to Compel just but objects to PacifiCorp's mischaracterizations in the withdrawal. PacifiCorp filed its Motion to Compel at 4:19 p.m. September 7, 2006, the day before the hearing in this matter, without any consultation with Desert Power. It had had the documents Desert Power produced since August 20, 2006. The document PacifiCorp attached to its withdrawal is the document Charles Darling of Desert Power remembered immediately, but Desert Power has not reviewed every document it produced in this matter. Counsel for Desert Power suggested to PacifiCorp's counsel that they contact us if they felt they need more, but other than asking for clarification, they did not do so.

The document attached to PacifiCorp's withdrawal in fact does demonstrate that PacifiCorp's refusal to recognize the force majeure and settle this matter resulted in the freezing of Desert Power's financing. Please see the following language in the document.

Of the three dates discussed to achieve Commercial Operation ("COD") on a early completion (Oct I), mid completion (Nov I), and late completion (Dec I), it is expected the milestone schedule that PacifiCorp and Desert Power will agree to in writing will achieve COD ahead of the early completion date of Oct. I, 2006. We expect to have this agreement in place prior to May 1st, 2006 and in any event prior to funding any additional construction draws.

When PacifiCorp changed its strategy and refused to settle, funding for the project ended.

If you have any questions, please let me know.

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