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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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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	<b>DOCKET NO. 04-035-04</b> <b>Petition for Explanatory Statement of Prior Orders and Petition for Hearing</b>
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Desert Power, L.P. (“Desert Power”), by and through counsel, hereby petitions the Public Service Commission of Utah (“Commission”) for an explanatory statement to further clarify its prior Reports and Orders issued September 20, 2006, October 2, 2006, November 8, 2006 in this docket as explained below. Desert Power further petitions the Commission to set this matter for hearing January 8, 2006 and to issue such explanatory and clarifying statement of said orders no later than Thursday, January 18, 2007.

In a letter dated October 23, 2006, Desert Power informed this Commission that Desert Power had had to file for bankruptcy protection earlier that day in the Bankruptcy Court for the District of Nevada and would seek to reorganize pursuant to Chapter 11 of the Bankruptcy Code. On December 19, 2006, the bankruptcy court approved \$2 million in interim financing from Morgan Stanley Senior Funding, Inc. (“Morgan Stanley”) for Desert Power and set a hearing for January 23, 2007 to consider approval of \$30 million in final financing to complete the Desert

Power plant conversion from single cycle to combined cycle.

In a financing agreement between Desert Power and Morgan Stanley, Morgan Stanley has stated that it is prepared to finance the completion of the plant conversion, but only on the condition that Desert Power seek and receive clarification from this Commission that, as set out in the Commission's November 8, 2006 Order, Sections 2.4 and 11.1.4 of the PPA have not been altered. Accordingly, so long as Desert Power complies with the provisions of the PPA, it is entitled to the avoided cost rates in the PPA.

PacifiCorp and Desert Power are in fundamental disagreement before the Bankruptcy Court as to the meaning of the Commission's orders, particularly, with respect to the intent of the Commission's language in the November 8, 2006 Order. Under the financing agreement approved by the Bankruptcy Court, the parties have until January 18, 2007 to receive an explanatory statement from the Commission, the lack of which will mean that the interim loan will be declared in default, and the proposed financing, by its terms, will not go forward. In order to simplify and expedite the January 8, 2007 hearing, Desert Power proposes that the parties submit written position statements to the Commission by January 4, 2007.

Wherefore, Desert Power petitions the Commission to:

1. Require the parties to submit position statements no longer than ten pages in length by January 4, 2007;
2. Set this matter for hearing January 8, 2007 at 9:00 a.m.;
3. Issue an explanatory statement in clarifying its intent no later than January 18, 2007.

Respectfully submitted this 26<sup>th</sup> day of December, 2006.

Callister Nebeker & McCullough

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Stephen F. Mecham  
Attorneys for Desert Power, L.P.

## Certificate of Service

I certify that on December 26, 2006 I emailed a true and correct copy of the foregoing **Petition for Explanatory Statement of Prior Orders and Petition for Hearing** to the following:

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