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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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In the Matter of the Application of PACIFICORP for a Certificate of Convenience and Necessity Authorizing Construction of the Lake Side Power Project.	Docket No. 04-035-30  <b>SUMMIT'S MOTION IN SUPPORT OF PACIFICORP'S OPPOSITION TO SPRING CANYON ENERGY, LLC'S PETITION TO INTERVENE</b>
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Summit Vineyard, LLC ("Summit") hereby joins in PacifiCorp's Opposition to Spring Canyon Energy, LLC's Petition to Intervene filed in the above-captioned matter on July 2, 2004, and states its additional arguments as follows:

**Spring Canyon's Intervention Would Materially Impair the Proceedings:**

1. The Utah Code provides that a petition for intervention shall be granted "if the presiding officer determines that . . . 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)(b). The intervention of Spring Canyon Energy, LLC ("Spring Canyon") will materially impair the

orderly and prompt conduct of these adjudicative proceedings and should not be allowed.

2. Spring Canyon states in its Petition to Intervene that it was short-listed in PacifiCorp's bidding process and it seeks a reevaluation of the winning bid against "all responses in the 2007 Resource category of PacifiCorp's RFP 2003-A process." This is beyond the scope and purpose of this proceeding. Furthermore, Spring Canyon states that it has not determined the positions it will take in this matter. Spring Canyon's intervention would unnecessarily burden this proceeding by allowing unfettered exploration of collateral issues. The Public Service Commission of Utah ("Commission") should, therefore, deny Spring Canyon's Petition to Intervene.
3. Also, Spring Canyon has not "stated facts demonstrating that [its] legal rights or interests are substantially affected by the [Certificate of Convenience and Necessity] proceeding." Utah Code Ann. 63-46b-9(1)(c). Spring Canyon's participation in PacifiCorp's bidding process did not bestow upon Spring Canyon any legal rights or interests. A runner-up does not acquire any legal rights or interests merely by participating in a bidding process. Spring Canyon has not cited any legal rights or legal interests that it may have that may be addressed in this proceeding. Accordingly, Spring Canyon's intervention will materially impair the proceedings and should not be granted.

### **Spring Canyon’s Intervention Could Harm Utah Ratepayers:**

4. During the discovery process of this proceeding, there is the potential that commercial information of bidders from the past and potential bidders of future Request for Proposal (“RFP”) processes will be shared amongst the bidders. In fact, Calpine Corporation, another potential intervenor, has already propounded discovery upon PacifiCorp in this matter, and others, inquiring into detailed confidential commercial information. See Summit’s Motion in Support of PacifiCorp’s Opposition to Calpine’s Petition to Intervene, Exhibit A and Exhibit B. This information could be used in a re-bid of the Lake Side Project in Utah, future bids in Utah, or in litigation. This information sharing, if allowed, will compromise the RFP process by interfering with competition so that the best price will not be reached. This will negatively impact ratepayers and is contrary to public policy. Spring Canyon was a bidder in PacifiCorp’s RFP process and could be a bidder in future bids. Its intervention would interfere with the competitive process to the detriment of Utah ratepayers and should not be allowed.

### **Alternatively, Participation Should Be Allowed Only with Limitations:**

5. Alternatively, pursuant to the Commission’s statutory authority, if the Commission allows Spring Canyon’s intervention, the Commission should “impose conditions on [Spring Canyon’s] participation in the adjudicative proceeding that are necessary for a just, orderly, and prompt conduct of the adjudicative proceeding.” Utah Code Ann. § 63-46b(3)(b). The Commission has

the authority to expressly limit an intervenor's participation to the narrow issues to be considered in the proceeding at hand. In fact, the Commission has recently exercised this authority by granting limited intervention to individual customers in In the Matter of the Power Outage December 2003, Docket No. 04-035-01, July 6, 2004.

6. If the Commission determines that Spring Canyon's intervention is warranted, the Commission should use its authority to limit the issues Spring Canyon can address in testimony and the scope of discovery questions to evidence of load growth forecasts and evidence that public convenience and necessity does or does not require the construction of this facility.

WHEREFORE, Summit requests that the Commission deny Spring Canyon's Petition for Intervention or alternatively, that if the Commission grants Spring Canyon's intervention, it only does so by imposing such conditions on Spring Canyon's participation that will ensure a just, orderly, and prompt conduct of this Certificate of Convenience and Necessity proceeding.

DATED this \_\_\_\_\_ day of July, 2004.

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**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of July, 2004, I caused to be hand-delivered, emailed, and/or mailed, first class, postage prepaid, a true and correct copy of the foregoing **SUMMIT'S MOTION IN SUPPORT OF PACIFICORP'S OPPOSITION TO SPRING CANYON ENERGY, LLC'S PETITION TO INTERVENE**, to:

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