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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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 SUPPLEMENT TO SUMMIT'S MOTION IN SUPPORT OF PACIFICORP'S OPPOSITION TO CALPINE'S PETITION TO INTERVENE
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On June 29, 2004, PacifiCorp filed its Opposition to Calpine's Petition to Intervene. Pursuant to R746-100-4.D of the Utah Administrative Code, motions directed toward responsive pleadings filed with the Public Service Commission of Utah ("Commission") shall be filed within ten days of the service of the responsive pleading. Pursuant to these timing requirements, motions directed towards PacifiCorp's Opposition to Calpine's Petition to Intervene were due on or before July 9, 2004. Therefore, on July 8, 2004, Summit Vineyard, LLC ("Summit") submitted its Motion in Support of PacifiCorp's Opposition to Calpine's Petition to Intervene, It happens that the Commission acted somewhat prematurely and granted Calpine Corporation's ("Calpine") intervention in the interim.

Since that time, Calpine has filed admissions in the United States Bankruptcy Court, District of Utah, which further support the fact that Calpine does not have a substantial interest in the instant proceeding, and therefore, the Commission should deny Calpine's petition for intervention. Based on these admissions in the Bankruptcy Court, Summit respectfully submits this supplement to its initial motion supporting PacifiCorp's opposition to the intervention of Calpine and states as follows:

1. In opposing the motions to quash certain discovery in the Geneva bankruptcy proceeding, Bankr. No. 02-21455, Calpine argues that the instant proceeding before the Commission is limited to

whether the [Lake Side] project is necessary for the State of Utah and whether a Certificate of Convenience and Necessity should be issued. . . [and the Commission] will not decide whether Summit's acquisition of the Property was tinged by fraud, or the result of collusion between PacifiCorp and Summit. In fact, the PSC likely has not [sic] jurisdiction to determine that issue.

Memorandum in Opposition to Motions to Quash and for Protective Order (hereinafter "Memorandum") ¶ 11, attached hereto as Exhibit A.

2. In its response to PacifiCorp's opposition to its intervention, Calpine argues that its interest in the Certificate of Convenience and Necessity proceeding is to investigate and challenge the integrity of PacifiCorp's bid evaluation and negotiation process and PacifiCorp's decision to reject Calpine's bid. Yet, it has proclaimed in its Memorandum, as quoted above, that the Certificate of Convenience and Necessity is limited to whether the Lake Side project is necessary to Utah. In fact, as quoted above, Calpine has represented to the

Federal Bankruptcy Court that this Commission does not have jurisdiction to investigate and decide the integrity of PacifiCorp's bid evaluation process.

3. Calpine also argues that discovery on the "issues relating to the intrinsic fairness of the bidding process, . . . [and] the existence of any collusion between and among PacifiCorp, Summit/Siemens and Geneva in connection with the sale" of the Geneva property are unique to the Bankruptcy Court and are not duplicative of the issues before the Commission. Memorandum, at 22.
4. Because Calpine is seeking relief from the Bankruptcy Court on issues related to the fairness of the bidding process, Calpine should be precluded by Order of the Commission from also raising these issues in this Certificate of Convenience and Necessity proceeding, and Summit asks that the Commission issue an Order so limiting.
5. Calpine cannot provide this Commission with any indication of any legal interest that can be addressed in this proceeding and has admitted that its supposed interest is clearly outside the scope of this proceeding. Accordingly, the Commission should deny Calpine's Petition to Intervene.

WHEREFORE, Summit requests that the Commission deny Calpine's Petition for Intervention. Alternatively, if the Commission grants Calpine's intervention, Summit requests that to ensure a just, orderly, and prompt conduct of this Certificate of Convenience and Necessity proceeding, the Commission impose conditions on Calpine's participation: (1) precluding Calpine from raising issues of the fairness of the bidding process, and (2) limiting

Calpine's participation to whether the Lake Side project is necessary for the State of Utah and whether a Certificate of Convenience and Necessity should be issued.

DATED this _____ day of July, 2004.

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CERTIFICATE OF SERVICE

I hereby certify that on this 14TH day of July, 2004, I caused to be e-mailed and hand-delivered or mailed, first class, postage prepaid, a true and correct copy of the foregoing **SUPPLEMENT TO SUMMIT'S MOTION IN SUPPORT OF PACIFICORP'S OPPOSITION TO CALPINE'S PETITION TO INTERVENE**, to:

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