

Stephen F. Mecham  
Callister Nebeker & McCullough  
10 East South Temple Suite 900  
Salt Lake City, UT 84133  
Telephone: 801-530-7300  
Facsimile: 801-364-9127  
Attorneys for Spring Canyon, LLC

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## **BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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IN THE MATTER OF THE PETITION OF  
SPRING CANYON, LLC FOR APPROVAL  
OF A CONTRACT FOR THE SALE OF  
CAPACITY AND ENERGY FROM ITS  
PROPOSED QF FACILITY

DOCKET NO. 05-035-08

**PETITION FOR HEARING**  
**February 18, 2005, 9:00 a.m.**

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Pursuant to Utah Administrative Rule R746-100-10, Spring Canyon, LLC (“Spring Canyon”) petitions the Public Service Commission of Utah (“Commission”) to conduct a hearing Friday, February 18, 2005 at 9:00 a.m. to determine the remaining capacity under the 275 MW cap established by stipulation (“Stipulation”) approved by the Commission in Docket No. 03-035-14. In addition, Spring Canyon requests that the Commission determine that Spring Canyon, as a qualifying facility (“QF”), is entitled to the entire remaining capacity under the cap. In accordance with its Petition for Expedited Approval of QF Contract filed in this docket, Spring Canyon intends to contract with and sell the remaining capacity to PacifiCorp.

As stated in that petition, remaining capacity means all megawatts not encompassed by or utilized in contracts the Commission has approved between PacifiCorp and Desert Power, Tesoro, Kennecott, and U.S. Magnesium. The remaining capacity Spring Canyon intends to offer for sale to

PacifiCorp is at least 100 megawatts and possibly more based on the terms of the previous contracts the Commission has approved. As support for this petition Spring Canyon states as follows.

1. In a letter dated July 30, 2004, Spring Canyon informed PacifiCorp of its intent to build a QF facility in Mona, Utah under the terms of the Stipulation. Spring Canyon unsuccessfully sought from PacifiCorp indicative pricing and a draft contract under PacifiCorp's Schedule 38. PacifiCorp and Spring Canyon exchanged correspondence concerning Spring Canyon's QF during the summer and fall of 2004 without making any progress. The correspondence between Spring Canyon and PacifiCorp describing Spring Canyon's efforts to negotiate a QF contract is attached as Exhibits 1 through 6. At the time of Spring Canyon's original July 30 2004 letter, PacifiCorp was obligated to provide an indicative pricing proposal within 30 days, but the Commission suspended that requirement by order dated September 23, 2004 in Docket No. 04-035-T10.

2. On September 28, 2004, Spring Canyon petitioned the Commission to direct PacifiCorp to enter into good faith negotiations with Spring Canyon for a contract to sell to PacifiCorp the remaining capacity under the 275 MW cap as a QF. In that same letter, Spring Canyon petitioned the Commission to increase the 275 MW cap of the Stipulation, which the Commission denied without prejudice by order dated October 7, 2004 in Docket No. 03-035-14.

3. In its Petition for Expedited Approval of QF Contract, Spring Canyon reiterated its pending petition to the Commission to permit Spring Canyon to sell to PacifiCorp the remaining capacity under the 275 MW cap of the Stipulation.

4. Spring Canyon filed a proposed QF contract with its Petition for Expedited Approval of QF Contract. There is still substantial work that must be done with PacifiCorp before the two parties can execute the contract. That effort will consume significant time, money, and other

resources of Spring Canyon and PacifiCorp that will be wasted if the parties negotiate for an amount with which the Commission disagrees at the conclusion of the negotiations. Without a decision from the Commission, it will be difficult to conduct negotiations.

5. No utility under the Commission's jurisdiction will be adversely affected by a ruling favorable to Spring Canyon; in fact PacifiCorp will benefit from such a decision by not having to needlessly risk expending its resources. In addition, PacifiCorp's ratepayers will benefit from the Spring Canyon QF project because the project will help alleviate some of PacifiCorp's growing capacity requirements under its Integrated Resource Plan.

6. By the terms of the Stipulation, the avoided cost terms and prices "should be available to any QF contract approved during the Interim Period so long as power from the QF project will be available to PacifiCorp by no later than June 1, 2007, up to a cumulative cap of 275 MWs for all QF projects approved during the Interim Period combined." In order to meet the June 1, 2007 deadline, Spring Canyon must have assurance immediately that it can negotiate with PacifiCorp for the entire remaining capacity under the 275 MW cap.

7. The Stipulation defines the Interim Period as the time between the effective date of the Commission Order approving the Stipulation and the date on which the Commission enters an order adopting new avoided cost terms and/or prices applicable to QFs with capacities in excess of the Schedule 37 maximum capacity. The Commission approved the Stipulation but has not approved new avoided costs terms and prices; therefore, the Interim Period continues and the Stipulation terms and prices remain available.

8. Spring Canyon has been working to enter into a QF contract with PacifiCorp for at least the last six months as evidenced by the attached correspondence. Additional delay will jeopardize the project.

Wherefore, Spring Canyon now respectfully petitions the Commission to expeditiously determine in hearing Friday, February 18, 2005 at 9:00 a.m. the remaining capacity under the Stipulation and that Spring Canyon is entitled to the remaining capacity for purposes of contracting as a QF with PacifiCorp.

DATED this 11<sup>th</sup> day of February, 2005.

Callister Nebeker & McCullough

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Stephen F. Mecham  
Attorneys for Spring Canyon

## **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Petition was emailed or mailed, postage prepaid, this 11<sup>th</sup> day of February 2005, to the following

Edward Hunter  
Jennifer Horan  
STOEL RIVES  
201 South Main Street, Suite 1100  
Salt Lake City, UT 84111

Michael Ginsberg  
Patricia Schmid  
**ASSISTANT ATTORNEYS GENERAL**  
Division of Public Utilities  
Heber M. Wells Building, 5<sup>th</sup> Floor  
160 East 300 South  
Salt Lake City, UT 84111

Reed Warnick  
**ASSISTANT ATTORNEY GENERAL**  
Committee of Consumer Services  
160 East 300 South, 5<sup>th</sup> Floor  
Salt Lake City, UT 84111

Roger Swenson  
[Roger.swenson@prodigy.net](mailto:Roger.swenson@prodigy.net)

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