

1 **Q. Please state your name, business address and position with PacifiCorp dba**
2 **Rocky Mountain Power (the Company).**

3 A. My name is Paul H. Clements. My business address is 201 S. Main, Suite 2300,
4 Salt Lake City, Utah 84111. I am the Commercial representative for Rocky
5 Mountain Power, responsible for Qualifying Facilities and Retail Special
6 Contracts.

7 **QUALIFICATIONS**

8 **Q. Please briefly describe your education and business experience.**

9 A. I have a B.S. in Business Management from Brigham Young University. I have
10 been employed with PacifiCorp for one year as an Originator/Power Marketer
11 responsible for negotiating retail special contracts and Qualifying Facility
12 contracts. I have also worked in the merchant energy sector for 8 years in pricing
13 and structuring, origination, and trading roles. I currently have responsibility for
14 Qualifying Facility contracts within Rocky Mountain Power.

15 **Q. Have you previously submitted testimony in this docket?**

16 A. No.

17 **PURPOSE OF TESTIMONY**

18 **Q. What is the purpose of your testimony?**

19 A. I will be responding to three issues raised by Mr. Swenson in his direct testimony
20 in this Docket: (1) the date for posting Project Development Security, (2) the
21 timing for specific commitments that can lead to delay damages and termination,
22 and (3) inclusion of lack of or excess wind as a Force Majeure event for testing
23 dates. I will also present the Company's proposed timeline for posting of Project

24 Development Security.

25 **PROJECT DEVELOPMENT SECURITY**

26 **Q. Can you summarize Mr. Swenson's position regarding the posting of Project**
27 **Development Security?**

28 A. Yes, Mr. Swenson in his direct testimony has stated that Pioneer Ridge's position
29 is to use 180 days from the effective date of the contract as the date on which 100
30 percent of the required Project Development Security be posted.

31 **Q. What is the Company's proposal for the timing of posting of Project**
32 **Development Security?**

33 A. The Company proposes that the required Project Development Security be posted
34 ten (10) days after the Effective Date.

35 **Q. Why does the Company require that Project Development Security be posted**
36 **sooner than 180 days after the Effective Date as proposed by Mr. Swenson?**

37 A. The Company has the obligation to purchase the output of Pioneer Ridge upon the
38 Effective Date. Upon assuming the obligation, the Company plans for the Pioneer
39 Ridge resource to come online at the Scheduled Commercial Operation Date.
40 Therefore, the Company requires assurance that the resource will be online at the
41 agreed-upon time. The Project Development Security provides such assurance
42 and allows for recovery of any costs that the Company incurs if the project is
43 delayed and/or cancelled. Therefore, Project Development Security should be
44 posted at the same time the Company assumes the obligation - on the Effective
45 Date.

46

47 **CRITICAL TIMING DATES**

48 **Q. Have PacifiCorp and Pioneer Ridge resolved the issue on critical timing**
49 **dates?**

50 A. Yes. Mr. Swenson proposed to move the start of delay damages 90 days beyond
51 the Scheduled Commercial Operation Date and push the termination date to 90
52 days past the Guaranteed Commercial Operation Date. The proposals set both
53 dates 90 days beyond that which PacifiCorp deemed reasonable. Mr. Swenson in
54 his prefiled direct testimony on page 8 lines 14-16 stated,

55 “What we expect is that there is a likely band of time for which the project
56 will reach Commercial Operations. Our best estimate of that band is plus or
57 minus 90 days from our expected on line date.”
58

59 In further negotiations with Pioneer Ridge, PacifiCorp proposed, instead of
60 extending the delay damage and termination dates by 90 days, to implement a 90
61 day period before the Scheduled Commercial Operation Date during which the
62 project can come online and receive the full Contract Price for that year. In
63 addition, PacifiCorp proposed that if the project comes online between 90 and 180
64 days before the Scheduled Commercial Operation Date, Pioneer Ridge will
65 receive 85 percent of the Contract Price for that year. This proposal provides the
66 90 day band that Mr. Swenson stated is necessary. This proposal structures the 90
67 day band in such a way that it provides an incentive to come online early instead
68 of providing leniency in the penalties associated with a delay.

69 **Q. Have the parties reached agreement on the contract language for critical**
70 **timing dates?**

71 A. Yes. The parties have agreed to contract language that is consistent with the

72 Company's proposal on this issue.

73 **LACK OR EXCESS WIND AS A FORCE MAJEURE EVENT**

74 **Q. Has the Company and Pioneer Ridge resolved Mr. Swenson's claim that lack**
75 **or excess wind should be considered a Force Majeure event when**
76 **determining the Commercial Operation Date?**

77 A. Yes. The Company firmly believes lack of or excess wind should not be
78 considered a Force Majeure event. However, the Company understands that
79 certain wind conditions may be necessary in order to perform the required testing
80 to prove Commercial Operation. Therefore, the Company has proposed inserting
81 language in the definition of Commercial Operation that allows for extension of
82 the Scheduled Commercial Operation Date in the event Pioneer Ridge is ready to
83 perform the required tests to reach Commercial Operation, as certified by a
84 professional engineer, but is unable to do so due to lack of wind or excess wind
85 conditions.

86 **Q. Have the parties agreed to this concept proposed by the Company?**

87 A. Yes. The parties have agreed to the concept proposed by the Company and are
88 finalizing the contract language.

89 **Q. Has the Company prepared a draft power purchase agreement Commission**
90 **orders in order to contract with Pioneer Ridge?**

91 A. Yes. I have attached to my testimony as Exhibit A, a draft power purchase
92 agreement that is consistent with Commission orders.

93 **Q. Does this conclude your testimony?**

94 A. Yes it does.