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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE PETITION OF
PIONEER RIDGE, LLC AND MOUNTAIN
WIND, LLC FOR APPROVAL OF A
CONTRACT FOR THE SALE OF
CAPACITY AND ENERGY FROM THEIR
PROPOSED QF FACILITIES

Docket No. 05-035-09
Docket No. 06-035-42

**PACIFICORP'S MOTION TO STRIKE
PREFILED SUPPLEMENTAL DIRECT
TESTIMONY OF ROGER J. SWENSON
AND REQUEST FOR EXPEDITED
TREATMENT**

PacifiCorp dba in Utah as Utah Power moves to strike the Prefiled Supplemental Direct Testimony of Roger J. Swenson for Pioneer Ridge, LLC ("Pioneer Ridge") dated April 19, 2006, on the grounds that the testimony is procedurally improper and does not leave Utah Power or the other participants in the docket with time sufficient to respond before the hearing, which is scheduled for May 1, 2006. In the alternative, PacifiCorp moves to extend the hearing date on the Pioneer Ridge proposed Power Purchase Agreement, which is now scheduled for May 1, 2006, for a period of three weeks to some time during the week of May 22, 2006. If the Commission denies Utah Power's motion to strike, the additional time is necessary for Utah Power to adequately respond to Mr. Swenson's Supplemental Direct Testimony. Utah Power requests expedited consideration of this motion as hearings are currently schedule for May 1,

2006. Ordinary response times would not have this issue resolved until after conclusion of this proceeding.

I. INTRODUCTION

On March 10, 2006, Pioneer Ridge filed with the Commission, seeking approval of a proposed Power Purchase Agreement, whereby Pioneer Ridge, a Qualifying Facility (“QF”), would sell energy to Utah Power from Pioneer Ridge’s proposed wind generation facility.

On March 28, 2006, pursuant to the Notice of Scheduling Conference, a Scheduling Conference was held. At the Scheduling Conference Mr. Swenson did not indicate that Pioneer Ridge would be filing any additional direct testimony and accordingly, the Scheduling Order, issued March 30, 2006 does not provide a date in which Pioneer Ridge may file supplemental direct testimony.

Accordingly, PacifiCorp hereby moves to strike Mr. Swenson’s Supplemental Direct Testimony. If Mr. Swenson’s Supplemental Direct Testimony is allowed in the record, Utah Power and the other participants will be prejudiced in that they will not have sufficient time to respond to the testimony, which contains issues material not only to Pioneer Ridge’s proposed power purchase agreement, but also to other, future QF wind developers that will undoubtedly pursue power purchase agreements with Utah Power.

By striking this testimony, the Commission will confine the May 1, 2006 hearing to those issues that have been appropriately raised before the Commission in accordance with the March 30, 2006 Scheduling Order.

II. ARGUMENT

Pioneer Ridge, which thus far has appeared without the benefit of legal counsel, never raised the prospect in the March 28, 2006 Scheduling Conference that it desired to file

supplemental direct testimony in these proceedings. Moreover, it has failed to follow the March 30, 2006 Scheduling Order in that the order does not contemplate the filing of supplemental direct testimony. If Pioneer Ridge and Mr. Swenson desired to file supplemental direct testimony, surely they could have done so well before now—nearly three weeks after the Scheduling Order was issued, and at a time when the May 1 hearing is fast approaching. In his initial Prefiled Direct Testimony, Mr. Swenson requested that the Commission hear this contract dispute on an expedited basis. Surprise filings such as Mr. Swenson’s Supplemental Direct Testimony are not consistent with moving a time-sensitive schedule along on an expedited basis. Mr. Swenson is not procedurally permitted to file testimony, inconsistent with the Commission’s Scheduling Order, under such a timeline that Utah Power and other participants will not have time sufficient in which to respond.

Because the issues raised in Mr. Swenson’s Supplemental Direct Testimony would materially impact the eventual power purchase agreement between Pioneer Ridge and Utah Power, as well as future power purchase agreements between Utah Power and other wind QF projects, Utah Power should be given time sufficient to respond. If Utah Power does not have sufficient time to respond, it will be prejudiced. Accordingly, Mr. Swenson’s Supplemental Direct Testimony should be struck from the record. If the Commission determines that the testimony should not be struck from the record, it should postpone the hearing for three weeks to permit Utah Power and the other parties in the docket time sufficient to respond to Mr. Swenson’s additional testimony.

III. CONCLUSION

For the aforementioned reasons, the Commission should strike Mr. Swenson's testimony. Alternatively, the Commission should delay hearings in this docket for approximately 21 days in order for Utah Power to adequately respond to and rebut the direct testimony.

RESPECTFULLY SUBMITTED: April 26, 2006

Dean S. Brockbank

Attorney for PacifiCorp dba Utah Power

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing **PACIFICORP'S
MOTION TO STRIKE PREFILED SUPPLEMENTAL DIRECT TESTIMONY OF
ROGER J. SWENSON AND REQUEST FOR EXPEDITED TREATMENT** was sent by
electronic mail to the following on April 26, 2006:

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