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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

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

Pioneer Ridge, LLC ("Pioneer") requests that the motion of PacifiCorp dba in Utah as Utah Power be denied. Pioneer simply is providing testimony in this case based on information that was finally released by PacifiCorp after the initial filing so that positions can be taken based on all information that is available. Pioneer had for months been attempting to obtain information to complete the adjustments to wind pricing based on the order by this commission dated February 2, 2006. This information, that is used to make the Pioneer method price adjustments, was made available by PacifiCorp to Pioneer after the initial filing was made. Pioneer sought to provide the information to the parties and to provide the actual Pioneer method prices derived based on the information. It is disingenuous at best for PacifiCorp (which had

possession of this information all along) to claim prejudice now that the information has been made available to other participants in this case. Pioneer did not provide new issues for which determinations need to be made in this matter beyond the scope that it filed in its direct testimony but rather sought to elaborate and bring to light concerns it had based on the information that PacifiCorp finally released. In that light Pioneer will strike portions of its supplemental testimony associated with the concerns it expressed over the performance guarantee and small projects as well as the issues associated with costs to cover and security calculations. Such matters can be taken up in future proceedings or contract dispute cases. Pioneer pleads with this Commission to not delay this matter based on PacifiCorp's own actions in withholding information as time is of the essence to move forward at this time. Pioneer also 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.

After Pioneer's initial testimony was filed PacifiCorp provided information to Pioneer that it had been seeking for many months and such information had a direct bearing on matters in this case. Such information is important for all Parties to have in order to meet the specific requirements of the method to adjust proxy wind pricing to wind profiles of QF projects that was ordered by this Commission. Pioneer provided supplemental testimony on April 19, 2006 to incorporate the additional information that elaborated its initial testimony.

II. ARGUMENT

PacifiCorp should not be permitted to withhold information from the parties for months and then finally release the information after testimony has been filed and then disingenuously claim prejudice or seek further delay after it shares information it had all along. Delaying the proceeding under these circumstances would only reward PacifiCorp for its own bad behavior. It is also interesting to note that PacifiCorp seems to want to follow a different set of rules than it argues for here when it is in its own interest. On April 4, 2006, a Scheduling Order was filed in regards to the Docket No.06-035-21, the latest PacifiCorp rate case, in which there is no date set in which PacifiCorp could file supplemental direct testimony. In that case PacifiCorp itself filed Supplemental MECH Testimony after the Scheduling Order. PacifiCorp should not be allowed to impose different standards of procedure on other Parties that PacifiCorp itself does not follow.

Pioneer Ridge required information that was held back by PacifiCorp to make the adjustment as ordered by the Commission. To now say that everything must be disallowed or hearings delayed because of PacifiCorp's own delay in providing this information should not be allowed as the consequence of PacifiCorp's own action. Delay it seems is the heart of PacifiCorp's negotiating tactics. The Commission should not allow this matter to be further postponed.

The concerns over small projects and the performance guarantees was explicitly taken up with only the intent of informing everyone involved in this matter. The issues over calculations for Security Deposit amounts was, and continues to be a concern because we have never obtained a quantified amount for security for specific deposits that PacifiCorp would agree to.

We do not want to go through this hearing on contract approval terms and then be left with future disputes that again lead to more delay.

Parties that have seen this information have as much time as PacifiCorp is providing to review its rebuttal testimony. The argument that PacifiCorp somehow needs more time is shallow at best since Pioneer and PacifiCorp have been negotiating this agreement (and these very issues)for many months and PacifiCorp has had possession of all the information.

While we have agreed to strike the portions of the Supplemental Direct testimony that deal with concerns over Performance Guarantees and their impact on small projects as well as the testimony associated with cost to cover calculations we would be happy to address any question that the Commission or any Party in this matter may have in live testimony at the hearing. We also expect that we would be allowed to provide live surrebuttal of testimony filed by other Parties in this matter. The Scheduling Order in this matter does not specifically state what will occur in the hearing on May 1,2006 but we assume that Parties will be allowed to provide live surrebuttal to rebuttal testimony file in this matter.

III. CONCLUSION

For the aforementioned reasons, the Commission should allow Mr. Swenson's supplemental testimony filed on April 19, 2006 with the portions of testimony dealing with performance guarantees and calculations for cost to cover removed. The Commission should not delay hearings in this docket.

RESPECTFULLY SUBMITTED: April 27, 2006

Roger Swenson

Vice President of Regulatory Affairs

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing **RESPONSE TO 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 27, 2006:

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